

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. NO: CR-15-4268 JB
6 ANGEL DELEON, et al.,
7 Defendants.

8
9 Transcript of excerpt of testimony of
10 JERRY RAY ARMENTA
11 Thursday, February 8, 2018;
12 Friday, February 9, 2018;
13 Monday, February 12, 2018
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1 Thursday, February 8, 2018

2 THE COURT: All right. Mr. Castellano,
3 does the Government have its next witness or
4 evidence?

5 MR. CASTELLANO: Yes, Your Honor. May I
6 have a moment?

7 Your Honor, our next witness is Jerry
8 Armenta.

9 MS. ARMIJO: Your Honor, may we have a
10 moment to see if his attorney is outside?

11 THE COURT: You may.

12 Come on in.

13 All right, Mr. Armenta, if you'll come up
14 and stand next to the witness box, and before you're
15 seated, my courtroom deputy, Ms. Standridge, will
16 swear you in. If you'll raise your right hand to
17 the best of your ability.

18 JERRY RAY ARMENTA,
19 after having been first duly sworn under oath,
20 was questioned, and testified as follows:

21 THE CLERK: Please be seated. State and
22 spell your name for the record.

23 THE WITNESS: My name is Jerry Ray
24 Armenta, J-E-R-R-Y, R-A-Y, A-R-M-E-N-T-A.

25 THE COURT: Mr. Armenta. Mr. Castellano.

1 DIRECT EXAMINATION

2 BY MR. CASTELLANO:

3 Q. Good afternoon, Mr. Armenta.

4 A. How are you?

5 Q. Are you now or have you ever been an SNM
6 Gang member?

7 A. I was, yes.

8 Q. And why do you say that you were, and not
9 that you are?

10 A. Because I let it down. I threw it away.
11 I took it out of my life. I don't want nothing to
12 do with it anymore.

13 Q. Before you were an SNM Gang member, were
14 you a member of any other gangs?

15 A. A street gang.

16 Q. What was the name of that gang?

17 A. North Side.

18 Q. I'm going to go ahead and show you a
19 photograph which has already been admitted as
20 Government's Exhibit 607, I believe. Let me check.
21 Okay. And is that a picture of any of your tattoos?

22 A. Yes.

23 Q. Let's turn to Exhibit 608. Is that a
24 better picture of your tattoos?

25 A. Yes, sir, that's me.

1 Q. On your abdomen there are three letters,
2 NSL. What does that stand for?

3 A. It stands for North Side Locos.

4 Q. Is that the street gang you referred to
5 earlier?

6 A. Yes.

7 Q. Where was that street gang?

8 A. Out of Gallup, New Mexico.

9 Q. And what does the 114 percent mean on your
10 stomach?

11 A. Well, the 100% is 100 percent. But the 14
12 is a representation of North Side. And it's the
13 14 -- it means the 14th letter of the alphabet,
14 which is N, Norteno. 114 percent.

15 Q. Turning to Exhibit 614, I'll have you look
16 at that exhibit, sir. What is that on the top of
17 your head?

18 A. That is the Zia symbol with the state of
19 New Mexico in the background of it.

20 Q. Why did you get that tattoo?

21 A. Because I was an SNM Gang member.

22 Q. And what significance did the state and
23 the Zia symbol have to you when you got that tattoo?

24 A. It's our flag. It's what we represent.
25 So we use it as a way to represent so that we don't

1 have to say nothing. People will know where we're
2 from when they see it.

3 Q. Have you seen a symbol like that before
4 with the letter S in the middle of it?

5 A. Yes.

6 Q. And did you ever want to or attempt to get
7 the letter S in the middle of that Zia symbol?

8 A. Yes, I did.

9 Q. Why did you not?

10 A. Because they did not let me.

11 Q. Who is "they"?

12 A. Mario Rodriguez and Daniel Sanchez.

13 Q. And why is that?

14 A. Because they said I didn't earn my bones
15 the right way.

16 Q. Now, in your opinion or through the
17 opinion of other SNM Gang members, did you believe
18 at some point you had earned your bones?

19 A. Oh, yeah.

20 Q. And can you tell us about that event?

21 A. Well, when I first got into the SNM, or
22 was brought in, this was in 2005, Lea County
23 Correctional Facility in Hobbs, New Mexico. A bunch
24 of us in the pod, we all got drunk off of some
25 homemade wine, prison-made wine. And some enemies

1 of ours that I didn't know we had, got a little
2 courage, got a little, you know, bigger when they
3 drank the wine and stuff, so they jumped us.

4 Q. Do you know, were they member of another
5 gang or what did you know about them?

6 A. Yes, they were Surenos, New Mexico
7 Surenos.

8 Q. Okay. Tell the members of the jury about
9 getting jumped.

10 A. There was seven or eight individuals. We
11 all got jumped because we were SNM members. At
12 first I didn't know the enemies that I inherited
13 when I got into the gang, so it was a surprise to
14 me.

15 But they jumped us. They beat us up. At
16 the same time, I defended myself. I had a
17 prison-made knife, a shank, and I stabbed one of
18 them. And the friend that I was with got beat up,
19 unconscious. And I also got beat up as well, but
20 not as bad as he did, because I was doing a little
21 more defending.

22 Q. Now, were you trying to defend your
23 friend, as well?

24 A. I was. After a while, they were smashing
25 his head, and I jumped in on top of him so they

1 could stop hitting him.

2 Q. How did that altercation end? Did they
3 just stop? Did the corrections officers stop it?

4 A. They just stopped. And it was a few
5 seconds after that the corrections officers came.
6 And we got down -- I got down on the floor. My
7 friend was already on the floor. And them other
8 guys were already in their cells doing who knows
9 what; I don't know.

10 Q. Now, where did the actual assault happen
11 in the facility?

12 A. It was in Housing Unit 4, D pod, in the
13 day room.

14 Q. Now, at that point in time were SNM
15 members and Surenos housed in the same pod?

16 A. Only me and Michael Armendarres, my friend
17 that was there, and Surenos were in that pod. In
18 other pods in the unit, there was other SNM Gang
19 members there.

20 Q. Now, what, if any, problems or tension
21 were created by you being in a pod with people you
22 learned were your rivals?

23 A. Say that again?

24 Q. Did that create any problems or tension in
25 the pod with being two different gangs in there?

1 A. Yeah, but I didn't understand what was
2 going on. I didn't understand what I had inherited
3 when I got into SNM. So I thought everything was
4 okay. I thought everything was okay; there was a
5 peace, there was a treaty, they were there before.
6 Nothing ever happened before, so I thought it was
7 okay, it was all good.

8 Q. How did you first come into the gang?
9 What year was that?

10 A. 2005. That's when I got in. I mean, I
11 knew gang members from before. I knew them, I knew
12 of them, but when I got in, it was in 2005.

13 Q. Did someone recruit you, or how did you
14 actually --

15 A. Someone recruited me. Someone brought me
16 in.

17 Q. Who was that?

18 A. Michael Armendarres.

19 Q. That was the one you were helping defend?

20 A. Yes.

21 Q. How is it that you found yourself
22 incarcerated? What happened?

23 A. Drug trafficking.

24 Q. Now, how many convictions do you have for
25 drug trafficking?

1 A. Currently, I have four.

2 Q. So were some of those convictions -- did
3 you get those before you were an SNM Gang member?

4 A. Three of them were before SNM Gang
5 membership.

6 Q. How old were you when you were first
7 arrested for your first drug trafficking conviction?

8 A. 19.

9 Q. And how long had you been dealing before
10 then?

11 A. About two years.

12 Q. Now, when you were dealing, then, were you
13 dealing on the streets?

14 A. Yes.

15 Q. And were you dealing for yourself, or for
16 your street gang, or who was it?

17 A. It was just for myself, just getting by,
18 getting the things that I liked and wanted.

19 Q. And what happened as a result of the drug
20 trafficking?

21 A. I had three -- well, I got my first one
22 when I was 19. I picked up two more while waiting
23 for that first one. So I ended up taking a plea
24 bargain for all three of them, and they ran them
25 concurrent. I pled guilty to trafficking on one

1 count on each case, and I got nine years, four years
2 suspended, five years probation.

3 Q. So just so the jury understands, you had a
4 total sentence of nine years?

5 A. Yes.

6 Q. With four years suspended; is that
7 correct?

8 A. Yes.

9 Q. So when the sentence is suspended, are you
10 doing jail or prison time? Or is that time held
11 over your head and you do probation instead?

12 A. It's held over your head, and you do
13 probation instead. If you violate or pick up any
14 other charges while you're on the five years
15 probation, then you can get the four years added on
16 to your sentence.

17 Q. Just so it's clear, I think you said you
18 had an initial arrest for drug trafficking. And
19 then were you out on the streets on conditions of
20 release pending that charge when you picked up
21 additional charges?

22 A. Yes.

23 Q. And ultimately you pled to three cases at
24 one time?

25 A. Yes. They ran them concurrent.

1 Q. Now, considering the fact that you were on
2 probation, how is it that you eventually found
3 yourself in prison?

4 A. I kept getting out and kept violating.

5 Q. And violating what?

6 A. My probation.

7 Q. And what are the kinds of ways you
8 violated your probation?

9 A. I absconded.

10 Q. What does that mean?

11 A. That means not reporting, not calling in.
12 I never went to go see the probation officer,
13 period.

14 Q. And that finally caught up with you?

15 A. And it caught up with me.

16 Q. So where did you end up, as a result of
17 finally getting sentenced to prison?

18 A. When I first got sentenced, I was in RDC,
19 Los Lunas. Then I went to the Level 2 prison there,
20 got into some trouble, got a write-up. My points
21 went. Then that's when I went to Hobbs in 2002.

22 Q. Do you accumulate points for misconduct in
23 prison?

24 A. Yes.

25 Q. And as a result of accumulating points, do

1 you then get moved to potentially a higher level
2 prison facility?

3 A. I went from a Level 2, minimum restrict
4 yard, to a medium yard, Level 3.

5 Q. What was the difference in either
6 privileges or other things in the prison with those
7 two levels?

8 A. The minimum restrict, you can leave the
9 pod any time of the day and go to the yard, go to
10 the gym, go to the library, do whatever. They have
11 a thing called quarters call and they announce it on
12 the intercom, and, "All right, it's time for you to
13 go back to your pod so we can count you guys."

14 When count is cleared, go back to do what
15 you're doing.

16 Level 3, you're in a pod all day, you have
17 certain times to go to the yard or the library.
18 Certain things you've got to get done through the
19 day.

20 Q. Sometime in 1999, did you meet a person
21 named Robert Lovato?

22 A. Yes.

23 Q. How did you meet him or how did you know
24 him?

25 A. From my cousins. My auntie ran a trailer

1 park in Albuquerque. And he had just gotten out, I
2 believe, and his mom lived there at the trailer
3 park. So he went home to his mom's, and his -- my
4 cousins and him knew each other, and that's how I
5 met him. Me and his sister ended up dating after a
6 while.

7 Q. Now, is there a Robert Lovato, the father,
8 and Robert Lovato, the son?

9 A. Yes.

10 Q. Is this the father or the son?

11 A. This is the father.

12 Q. Did you ever have a talk with him about
13 joining gangs?

14 A. We did. And he actually told me to never
15 join the SNM. He said, "Whatever you do, if you go
16 to prison, do not clique up. I'm begging you, do
17 not clique up."

18 Q. What does it mean, "to clique up"?

19 A. That means to get affiliated, get brought
20 in, be known as a member.

21 Q. I take it you didn't take his advice?

22 A. I did not.

23 Q. Tell us about the first time --

24 THE COURT: Mr. Castellano, would this be
25 a good time for us to break for the evening?

1 MR. CASTELLANO: Sure, Your Honor.

2 THE COURT: All right. I appreciate
3 everybody's hard work. Tomorrow is not a snow day.
4 I appreciate everything you've been doing for us.
5 We'll see you at 8:30 in the morning.

6 All rise.

7 (The jury left the courtroom.)

8 THE COURT: All right. Y'all have a good
9 evening. See you in the morning.

10 MS. JACKS: Your Honor, will the Court
11 admonish the witness?

12 THE COURT: Mr. Armenta, don't talk to
13 anyone about your testimony now that you've taken
14 the stand, okay? Don't talk to other witnesses.

15 THE WITNESS: Yes, sir.

16 THE COURT: Or anybody else. Okay?

17 THE WITNESS: Okay, thank you.

18 MR. MAYNARD: Your Honor, there may be
19 some unfinished business. Today is the deadline for
20 some of the redactions and proposed redactions of
21 recordings. I've just filed a brief motion in
22 limine which I hope is explanatory. But does the
23 Court want hard copies of anything? Because the
24 permutations of how -- redactions in a long
25 document -- and I'm just talking about the

1 transcript, not the audio -- there's an infinite
2 number of different ways to do it. And I'm just
3 seeking guidance on how to present our thoughts to
4 the Court.

5 THE COURT: If I were to pick up your
6 brief and then sit there with the transcripts, would
7 I be able to make sense as to what additional
8 redactions you want?

9 MR. MAYNARD: I hope so. I tried to make
10 it simple, although it can get -- well, I hope so.

11 THE COURT: Let me do this. Let me --
12 your brief has been filed?

13 MR. MAYNARD: I made it as short as I
14 could. There are a lot of issues, and I just went
15 through the issues that the Court knows exist in
16 situations like this. And of course, a lot of it is
17 discretionary to the Court. We want to keep it
18 narrow. The Government might want it broader. So I
19 think I communicated the gist of our position to the
20 Court in some specifics.

21 THE COURT: But you've already filed it?

22 MR. MAYNARD: I just filed it five, ten
23 minutes ago.

24 THE COURT: And has Mr. Beck -- I now have
25 in those folders -- I have everything I need to

1 probably sit down and look at it?

2 MR. MAYNARD: Right. The folders for the
3 most part just addressed the Bruton problems. And
4 I'm raising briefly all of the issues relating to
5 probative value versus unfair prejudice, confusion
6 to the jury, trash talk among prison inmates with
7 the F word in every other sentence; and the fact
8 that -- what does it prove? Because I can't see the
9 connections to hardly even to enterprise, much less
10 the Molina homicide.

11 THE COURT: When I look at what you're
12 wanting additional redactions, is it going to say
13 403, Bruton?

14 MR. MAYNARD: Yes.

15 THE COURT: 403, Bruton?

16 MR. MAYNARD: Yes. I'm asking for entire
17 transcripts just to be excluded because I've read
18 through them and I can't see the connections.

19 MR. BECK: I think we'll be playing them
20 in court. It will connect up.

21 THE COURT: Have you seen the brief?

22 MR. BECK: I have.

23 THE COURT: Do you think I'll be able to
24 sit down with what I have?

25 MR. BECK: They asked for full transcripts

1 to be excluded, and in each of those transcripts
2 there is evidence of possession of needles, drug
3 trafficking, fishing in cells, photos, discussion of
4 the Julian Romero incident.

5 THE COURT: But your brief has been filed?

6 MR. BECK: It has.

7 THE COURT: It already has?

8 MR. MAYNARD: And mine has, if you can
9 call it a brief.

10 THE COURT: Is this going to be on behalf
11 of all of the defendants, or am I looking at
12 different ones?

13 MR. MAYNARD: I just filed it a moment
14 ago, and I haven't had time to consult. But we have
15 talked together among the defendants. Our
16 particular issues focus more on 403, 402, you know,
17 issues like that.

18 THE COURT: Okay. All right. Let me do
19 this: Let me take a look at it tonight, maybe in
20 the morning, and maybe I can give you a little
21 better feel in the morning.

22 MR. MAYNARD: Very well.

23 THE COURT: All right. Y'all have a good
24 evening.

25 (Court stood in recess.)

1 Friday, February 9, 2018

2 THE COURT: All, right. Good morning,
3 everyone. I appreciate everybody being here and
4 ready to go on time. I'll see if y'all have
5 anything you need to talk to the Court about, but
6 let me comment a little bit on what Mr. Maynard
7 brought up at the very end of the day.

8 I haven't been through everything, but I
9 did get through a fair amount, and I'm inclined not
10 to sustain any 401, 402, 403 objections to it. I
11 also wasn't persuaded by the Government hadn't
12 redacted enough arguments.

13 I think there is a narrative here. I
14 think we got a good preview of what the narrative is
15 going to be from Mr. Lowry during January and
16 December, and how you're going to attack these
17 tapes. And if I start chopping them down and then
18 y'all argue the way Mr. Lowry did about the tapes,
19 then it's not going to be fair to the Government. I
20 think there is a narrative here. We've got to put
21 them in context.

22 I thought the Government did a good job of
23 at least the materials I've seen taking care of the
24 Bruton issues. I thought the formatting was fine,
25 so they showed us the redacted portions, and then

1 they also showed us how it's going to go to the
2 jury. I thought those were fine. It didn't
3 indicate what was redacted.

4 I may look a little closer at some of the
5 individual objections to see if there is anything
6 that troubles me. But overall, I thought the
7 Government was pretty good with their word about
8 what they were going to do with this material, and
9 so I'm not inclined to sustain a lot of the
10 objections. I really didn't see any that I was
11 sustaining from what I reviewed last night.

12 MS. BHALLA: May I be heard briefly on
13 that issue?

14 THE COURT: You may.

15 MS. BHALLA: Thank you, Your Honor. If
16 the Court -- given the Court's ruling, I think the
17 question I have for the Court is that depending on
18 the statements the Government intends to elicit, I
19 think that we should be able to also submit the
20 other statements that were made to impeach the
21 witnesses' statements on the stand about what our
22 client's said. And I think that it's impeachment,
23 and I don't think it's being necessarily offered for
24 the truth of the matter asserted. And in that
25 particular instance, I don't think that there should

1 be a bright-line rule that we can't elicit our own
2 clients' statements when the Government is bringing
3 out statements of our clients and things. So I
4 think that we have a right to present a defense, and
5 that right -- and it's a constitutional right -- and
6 I think that that right includes letting us question
7 about other statements that were made within the
8 context of the recordings.

9 THE COURT: I looked at the ones that I
10 could tell were about completeness, and I didn't --
11 I wasn't persuaded of those that I could see from
12 the objections. If you want to make another run at
13 some particular ones that you think the Government
14 is cutting out that go to completeness, I'll take a
15 look at it. I don't agree that just because the
16 Government brings out a statement, you get to bring
17 out a statement of your client. I just don't think
18 the rules of evidence work that way.

19 MS. BHALLA: It depends on the statement,
20 Your Honor.

21 THE COURT: I don't disagree. If you want
22 to be specific and say, "Okay, this one we need for
23 completeness" -- but that's probably the only thing
24 I'm going to go with, because -- and the Tenth
25 Circuit has been more liberal on completeness. You

1 know, some jurisdictions, and I think the rule
2 itself, just limits it to writing, but I think Judge
3 O'Brien has an opinion that suggests it goes to oral
4 statements, as well.

5 So I will do what the Tenth tells me to
6 do, but I'm probably not going to do it on
7 constitutional grounds.

8 MS. BHALLA: Okay. And I think maybe the
9 Court might be misunderstanding me. And I'm not
10 talking about necessarily with just, straight up,
11 the redactions. I'm talking about when the
12 witnesses are on the stand. So if, you know, Billy
13 Cordova gets on the stand and testifies, you know,
14 "Carlos Herrera confessed to the murder, and he
15 confessed to me on tape and I have it," and there
16 are also statements on the recording where Carlos
17 Herrera says "I have nothing to do with it" -- I
18 think if he says that, I get to impeach with that.

19 THE COURT: I don't think you do. I think
20 the law is crystal-clear. I've written on it
21 repeatedly and you can look at Salzberg. It just
22 doesn't come in. He's got to take the stand. When
23 he takes the stand, then he gets to do those sort of
24 things.

25 MS. BHALLA: I want to put on the record,

1 Your Honor, that we are joining in Ms. Fox-Young's
2 and Mr. Villa's motions on the right to present a
3 defense, and we believe that our clients have the
4 right to impeach with that evidence, and that just
5 because it's our client's statement doesn't make it
6 inadmissible when you're using it for impeachment
7 and when you're using it for the rule of
8 completeness.

9 Thank you, Your Honor.

10 THE COURT: But I do think in that
11 situation you would be trying to get it in for the
12 truth of the matter. You want the jury to hear that
13 Mr. Herrera is denying participation in that.

14 MS. BHALLA: I think it depends on how he
15 answers the questions, if that's fair. I mean, I
16 think if we ask the witness, "Isn't it true that he
17 also told you he had nothing do with it," and he
18 says, "No," I think we get to go there.

19 THE COURT: Yeah, but I don't think you
20 better be asking that sort of question if we know
21 the answer is going to be yes. So you just can't
22 elicit your own client's out-of-court statement.
23 The question would be objectionable. I wouldn't let
24 the witness answer it. So you're not going to get
25 to impeach him with it.

1 MS. BHALLA: I understand the Court's
2 ruling. I'm just putting it on the record.

3 THE COURT: I understand.

4 MS. BHALLA: Thank you.

5 THE COURT: You bet.

6 I might mention, as far as Mr. Villa's and
7 Ms. Fox-Young's motion, I think we have done a good
8 job -- I certainly feel like, as an observer here,
9 the jury has been able to figure out Mr. Perez'
10 defense. His defense is that, you know, he was
11 afraid. And I guess what I understand his defense
12 to be is that the walker was sitting there and Mr.
13 Rodriguez took it; but he didn't, like, hand it to
14 him. I guess that's the defense. And I think he's
15 getting to put on his defense. He just doesn't get
16 to have every piece of evidence come in under the
17 rules of evidence.

18 MS. BHALLA: All right. I guess for Mr.
19 Herrera, I don't feel that we're going to be able to
20 get in our defense when Mr. Cordova takes the stand
21 and when Mr. Archuleta takes the stand. And
22 depending on what he testifies to, we're not allowed
23 to bring in contradictory evidence that that witness
24 is testifying to.

25 THE COURT: Well, that's tough. I

1 certainly understand your predicament. And I'm all
2 open to being educated on this, but I've been here
3 before and it's just a tough situation if he doesn't
4 take the stand. I understand the situation.

5 MS. BHALLA: Okay, Your Honor. Thank you.

6 THE COURT: Thank you, Ms. Bhalla.

7 MR. VILLA: Your Honor, I just wanted to
8 briefly respond to one comment you made.

9 THE COURT: Okay.

10 MR. VILLA: You said you want these
11 statements in for their truth. You commented that
12 we would want these statements in for the truth, and
13 if it's for impeachment purpose, as we've argued
14 under 806, they're not in for the truth. And the
15 Court can give a limiting instruction if the
16 Government wants one, and if there isn't any other
17 evidence of whatever is said in those statements,
18 we're certainly not permitted to argue in closing to
19 the jury that those statements are to be taken for
20 the truth but rather just for impeachment. And I
21 think that's the limitation, if the Court admits
22 certain statements under 806, that we're stuck with.

23 THE COURT: You're talking about the one
24 to Mulholland (sic)?

25 MR. VILLA: Yes.

1 THE COURT: It seems to me that the only
2 way you get to impeach any witness there is to have
3 him answer that question in the first place.

4 MR. VILLA: Mr. Mulheron.

5 THE COURT: Yeah. Or any other officer
6 that Mr. Perez made a statement to. And so it seems
7 to me that if you never get the question, you don't
8 allow him to answer the question, you never get to
9 the impeachment. That's the reason that I think the
10 first thing, the first evidence comes in for the
11 truth of the matter, and that's the one that's
12 objectionable. See what I'm saying? You elicit the
13 statement: Did Mr. Perez tell you that he was
14 afraid, that is for the truth of the matter. And
15 then if he says no, then you impeach, I understand.
16 But you never get there because you can't get over
17 the first, is my problem.

18 MR. VILLA: I think what we're saying is,
19 when Agent Palomares testified that Mr. Perez says,
20 "It came up missing while I was in the shower," Mr.
21 Perez has now become a declarant under 806, because
22 it includes 801 and we're entitled to impeach that
23 statement as I read those Seventh Circuit and First
24 Circuit cases and the discussion of the Senate
25 report, that the party opponent's statement is

1 always subject to attack and we can then impeach it
2 with any other statement that the party opponent has
3 made.

4 THE COURT: I understand. I understand.
5 And I read your brief and I reread your brief on
6 that issue.

7 I mention this to the Government: Y'all
8 may not want to bring Mr. Palomares back up here and
9 make a record outside the presence of the jury as to
10 what he knows. But even if you don't want to do
11 that, you might want to throw an affidavit in the
12 file, him saying, "I didn't know anything about it."

13 I think it was there. I haven't gone back
14 and checked the record, but for it to be clear, you
15 might want to throw it in. It's not going to be
16 subject to cross-examination.

17 MR. CASTELLANO: The defense asked him if
18 he knew of any threats, and his answer was no.

19 THE COURT: I thought he did, but just for
20 completeness.

21 Can I go ahead and bring the witness in?

22 MR. CASTELLANO: Actually, I would say no,
23 because I have two questions or two issues for the
24 Court before the witness comes in. The first is:
25 This is one of the witnesses with the videotape from

1 the Department of Corrections.

2 THE COURT: Mr. Armenta?

3 MR. CASTELLANO: Yes. He's one of those
4 witnesses who violated the rules of contact. So I'd
5 ask the Court to listen to the testimony before
6 that's played. The Court knows our objection.

7 THE COURT: Okay.

8 MR. CASTELLANO: The other is that I'm
9 going to ask the Court to -- well, ask that the
10 Court order the defense to only impeach by prior
11 conviction with this witness, not with the facts
12 behind each of these. The trafficking offenses are
13 included, but the most important is: He has a
14 conviction for contributing to the delinquency of a
15 minor. That was initially a charge of criminal
16 sexual contact of a minor. So it would be improper
17 impeachment for them to go behind the facts of that
18 conviction. We haven't been objecting a lot because
19 they've been helping us by bringing in more
20 racketeering acts, so we've been letting those go.
21 But in this case, we're going to object to any
22 impeachment beyond the fact of the conviction.

23 THE COURT: The fact of the conviction
24 they can get in, and this would be classic
25 impeachment for credibility with the felony rules so

1 they can bring in the fact that he was convicted,
2 that it is a felony, and just a brief what the
3 felony was; correct?

4 MR. CASTELLANO: I agree that's all fair,
5 but not the facts behind. So the conviction will be
6 contributing to the delinquency of a minor.

7 THE COURT: Okay. Probably I'll impose
8 those -- these that don't go to sort of
9 racketeering. The other ones I think are fair game,
10 and y'all can get in the facts as we've been doing.
11 But probably on these, you'll just get to impeach
12 him in the normal way. All right.

13 MS. ARMIJO: At break, can we discuss with
14 the Marshal Service the issue with the tablets?

15 THE COURT: Is it any problem for Mr.
16 Armenta to be here for the tablets? Why don't you
17 go ahead and put on the record, Deputy, what you
18 wanted to put on and then ask questions.

19 I think the deputy had some -- he had
20 questions, so maybe he can go ahead and ask those
21 right now.

22 MR. MICKENDROW: Your Honor, Deputy
23 Mickendrow for the Marshal Service. We have located
24 Robert Martinez' tablet. It was up in our
25 Albuquerque office the whole time. Just due to the

1 number of personnel changes that the Marshal Service
2 has had lately, it was set aside and forgotten
3 about. There was nothing done with it.

4 I am unclear as to what tablets the Court
5 wants the Marshal Service to turn over. If I could
6 get a specific listing on the record, I'd appreciate
7 that. I definitely don't want to turn over any
8 tablet that isn't supposed to be turned over.

9 THE COURT: I know I made some orders on
10 this, but I am not real precise in my mind what
11 needs to be turned over.

12 I'll start with you.

13 MS. ARMIJO: Your Honor, Robert Martinez
14 is the one we discussed yesterday which the Court
15 had indicated that it was okay with the United
16 States first having Corrections look at it, because
17 I don't believe that that tablet has been
18 compromised.

19 THE COURT: Okay.

20 MS. ARMIJO: And he has been looking for
21 his tablet for the last several weeks.

22 THE COURT: So turn that one over to the
23 FBI as soon as possible. They're going to look at
24 it very quickly? It is the FBI; right?

25 MS. ARMIJO: Yes. FBI will work with

1 Corrections to get that examined.

2 MR. MICKENDROW: I will have this
3 overnighted here by Monday.

4 THE COURT: There is one that is going to
5 go directly to the expert for Mr. Lowry who is going
6 to examine it. What's that one?

7 MR. LOWRY: That one is Timothy Martinez,
8 I believe, Your Honor.

9 THE COURT: Will you give the deputy the
10 address?

11 MR. LOWRY: I emailed.

12 MR. MICKENDROW: So it's only the one
13 tablet that I'm turning over to defense; correct?

14 MR. LOWRY: Correct. We didn't -- the
15 review was just the tablets that were compromised.

16 MS. ARMIJO: Well, that's different. You
17 just requested Tim's. There were others that were
18 compromised. You're just asking for Tim.

19 MR. LOWRY: I think all the others that
20 were compromised had been sent up for review. I'm
21 looking to Mr. Acee. He has them. We sent them for
22 review. This is the only remaining tablet that has
23 not been reviewed, is my understanding.

24 THE COURT: That's mine, as well. We're
25 just down to two.

1 MR. MICKENDROW: And just to clarify, Your
2 Honor, the Marshal Service actually has three
3 tablets right now. We have Timothy Martinez, Robert
4 Martinez, and we have Munoz, Frederico Munoz, I
5 believe it is.

6 MS. ARMIJO: And I believe that Frederico
7 Munoz' may have been compromised. So that's why I'm
8 saying there may be some miscommunication here. The
9 FBI does not have Munoz' and did not send it up.

10 THE COURT: Do you care if it just goes --
11 if Munoz --

12 MS. ARMIJO: No.

13 THE COURT: So send Mr. Munoz' to Mr.
14 Lowry as well. You'll send two there and turn the
15 other over to the FBI.

16 MR. MICKENDROW: Understood. Thank you.

17 THE COURT: Thank you. I appreciate it.

18 MR. VILLA: Your Honor, I'd like you to
19 order the FBI, if Robert Martinez' tablet was
20 compromised, to immediately notify us so it can be
21 sent to the expert.

22 THE COURT: Mr. Acee is agreeing with
23 that. So I think that's been the plan.

24 All rise.

25 (The jury entered the courtroom.)

1 THE COURT: All right. Everyone be
2 seated. Good Friday morning to everyone. I
3 appreciate everybody being back and ready to go.
4 And again, I appreciate the parties and the
5 attorneys doing the same. Everybody has worked very
6 hard to keep us on track. I think we are on track.
7 And I appreciate everybody working with us.

8 I guess we've got a funded government, so
9 we don't have to worry about that, although I don't
10 think we had much to worry about here in the
11 judiciary. But it sounded like while we were
12 sleeping, they got it taken care of.

13 So thank you for all you've done. You've
14 been a great bunch to work with.

15 All right. Mr. Armenta, I remind you
16 you're still under oath.

17 Mr. Castellano, if you wish to continue
18 your direct examination of Mr. Armenta, you may do
19 so at this time.

20 MR. CASTELLANO: Thank you, Your Honor.

21 THE COURT: Mr. Castellano.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. CASTELLANO:

24 Q. Good morning, Mr. Armenta.

25 A. Good morning. How are you?

1 Q. I'm doing well. How are you?

2 A. Great.

3 Q. Yesterday I was going to start asking you
4 about your entry into the SNM Gang, but I want to
5 take a step back to when you were a member of the
6 North Side Locos. Were you dealing drugs when you
7 were a member of that street gang?

8 A. Yes.

9 Q. What types of drugs were you selling?

10 A. I first started selling marijuana and then
11 it upgraded to crack cocaine.

12 Q. And any other drugs that you were selling?

13 A. No.

14 Q. Were you using drugs at that time?

15 A. Yes.

16 Q. What drugs were you using?

17 A. Marijuana first, and then eventually crack
18 cocaine.

19 Q. And since that time, have you ever really
20 stopped using drugs?

21 A. Crack, since 2008, when my daughter was
22 born. I've been using heroin and Suboxone off and
23 on since then.

24 Q. I want to take you back now to this fight
25 you told us about yesterday with you and, I believe,

1 Mr. Armendarres. What happened as a result of that
2 fight in terms of your position with the SNM Gang?

3 A. Well, I was accepted -- I was accepted --
4 when I got to Santa Fe, a lot of guys that were out
5 had already been in the SNM for a while and
6 higher-ups. They accepted me for what I had did,
7 for defending myself, defending Michael Armendarres,
8 and also getting beat up, representing the gang.

9 Q. And was that 2005 in Hobbs?

10 A. Yes.

11 Q. Then you mentioned going to Santa Fe?

12 A. Yes.

13 Q. Is that where you went next after --

14 A. Yes, after the write-up, after the whole
15 thing that -- all the validation and all that stuff
16 that they did.

17 Q. Who recruited you into the gang?

18 A. Michael Armendarres.

19 Q. Did anyone else raise their hand for you
20 to enter the gang?

21 A. Yes.

22 Q. Who was that?

23 A. That would be Eric Duran. I don't know
24 their full names, but I know them as Droopy, Biaso,
25 Nemo, and Dimas.

1 Q. What was the last name?

2 A. Dimas.

3 Q. Dimas.

4 Now, based on the fight you had where you
5 stabbed -- you stabbed a Sureno as part of that
6 fight; is that correct?

7 A. Yes.

8 Q. Did anyone tell you as a result of that
9 fight that you had earned your bones?

10 A. At that moment, no.

11 Q. Eventually did somebody tell you that?

12 A. Yes.

13 Q. Who was that?

14 A. That would be James Yoakum.

15 Q. Anybody else?

16 A. They never said it directly like that, but
17 he talked to other gang members and said, "This is
18 what he did; this is how he did it; I think he
19 should be admitted and accepted into the SNM Gang."

20 And three or four guys all accepted.

21 Q. Who were those people?

22 A. That was -- okay. It was James Yoakum,
23 Sammy Silva, Gerald Archuleta, and Speedy. His name
24 is Fred, but I don't know his last name.

25 Q. When you got to Santa Fe, were the pods

1 mixed up there, or at that point were you being
2 housed with only SNM members?

3 A. We were all mixed up at that time.

4 Q. I'll ask you the same question when you
5 were in Hobbs. Did that create any tension knowing
6 that you had potentially rival gang members living
7 in the same pod?

8 A. At that time I didn't know about it. Any
9 enemies I had inherited, I didn't know about it till
10 that day.

11 Q. Were you pretty young in terms of the gang
12 and the culture of this gang?

13 A. I didn't know anything about it.

14 Q. When you joined the gang, were you told
15 any rules of the gang?

16 A. You can't be a rat; you know, just regular
17 rules that being in prison, you can't be a rat,
18 can't have sex charges, can't be soft. If someone
19 asks you to go to the room to fight, you go and
20 fight. Just stuff like that.

21 Q. What about when somebody above you orders
22 you to do something?

23 A. That I learned later, that if I was
24 ordered to do something, I had to do it. And if I
25 didn't do it, then I'd either get a violation or --

1 depending on what they had me do, it would be my
2 life or I'd get beat up, violation.

3 Q. So would a violation be something of a
4 more minor --

5 A. Get beat up, like taking a beating from a
6 couple of other brothers in the room.

7 Q. At some point in time did you get involved
8 with any fights to represent the SNM, or were you
9 ordered to fight anybody or beat anybody up?

10 A. No.

11 Q. So what year was it that you went to Santa
12 Fe, if you recall?

13 A. It was the end of 2005, November. Yeah,
14 November.

15 Q. About how long did you stay in prison at
16 that point?

17 A. Till September of 2006.

18 Q. Where did you go from there?

19 A. I went to Guadalupe County for a couple of
20 weeks. I had a detainer hold there.

21 Q. What were you being held over there for?

22 A. For a fight that I had prior to my arrest
23 for my parole violation.

24 Q. And how was that case resolved?

25 A. I took a plea bargain for a fourth-degree

1 felony, for aggravated battery. The result was one
2 year of unsupervised probation and I had to pay
3 fines, court costs, and stuff like that.

4 Q. If you were on unsupervised probation,
5 does the Court there know that you violated only if
6 you get in trouble again?

7 A. Yes.

8 Q. No one is watching you otherwise; correct?

9 A. No, I don't have to report to anybody. I
10 don't have to call, nothing.

11 Q. Did you complete that probation?

12 A. Yes.

13 Q. What happened after that?

14 A. I continued living my life. I met my
15 wife, had children, went to school for a little
16 while. Had minor run-ins with the law every once in
17 a while that turned out to be just a mistake.

18 Q. Let me ask you about a 2000 charge for
19 burglary. Do you recall that charge?

20 A. 2000?

21 Q. 2007.

22 A. Oh, 2007, yes, I do.

23 Q. What happened with that charge?

24 A. I was accused of stealing from my
25 stepfather all his Indian jewelry that he had in his

1 van. It turns out that my little brother stole it,
2 because my stepfather had stole from him some drugs
3 that he had, and I had gave him a ride to go sell
4 the stuff, because I had a car; so I gave him a ride
5 and so I was accused of that.

6 Q. Was that one of the run-ins with the law
7 you mentioned a second ago?

8 A. Yes.

9 Q. What happened with that charge?

10 A. That charge was dismissed. That whole
11 case was dismissed.

12 Q. Now, you said you met your wife and
13 started having kids. Even during that time, were
14 you using drugs?

15 A. Occasionally.

16 Q. What were you using at that time?

17 A. Mainly cocaine.

18 Q. Did you also use heroin at that time?

19 A. A couple of times.

20 Q. In 2011 were you arrested again for a
21 drug-trafficking charge?

22 A. Yes.

23 Q. And when was that charge finally resolved?

24 A. October of 2014.

25 Q. So when that charge was pending -- it

1 looks like it was pending for almost three years --
2 what were you doing during that three-year
3 timeframe?

4 A. I was incarcerated in MDC and NMDOC.

5 Q. All right. Now, in 2013, did you
6 eventually go back to prison at the Southern New
7 Mexico Correctional Facility?

8 A. Yes.

9 Q. For what charge?

10 A. For contributing to the delinquency of a
11 minor.

12 Q. How long were you sentenced on that
13 charge?

14 A. I had two charges of them on one case, and
15 each one was 18 months.

16 Q. And were those run consecutively for a
17 total of three years?

18 A. Yes.

19 Q. Now, on those charges are you aware of
20 whether you get what's called day-for-day good time?

21 A. Yeah, 50 percent.

22 Q. So in other words, if you're sentenced to
23 three years and you get day-for-day, does that mean
24 you have to serve 18 months if you don't have any
25 violations or lose your good time?

1 A. Right. Any write-ups or stuff like that,
2 misconduct.

3 Q. So is it misconduct in prison that
4 sometimes takes away from your good time and forces
5 you to do more time?

6 A. Yes.

7 Q. Okay. As the result of the distributing
8 charges, where did you first go to prison?

9 A. Los Lunas.

10 Q. For what purpose?

11 A. It was for those charges.

12 Q. But I mean, why do you go to Los Lunas
13 first, and then --

14 A. Oh, it's called RDC. It's like a
15 classification prison. You go there and you get
16 reviewed by classification by STIU, the psychs,
17 medical, and they determine what level you are, how
18 many points you got, if you're a threat, if you
19 should be locked up, go to Level 2, Level 3, and
20 then they ship you out from there.

21 Q. When you say they ship you off, where did
22 they ship you?

23 A. Well, I was there for about seven months,
24 seven, eight months, and they shipped me to Southern
25 here in Cruces.

1 Q. Now, when you go to a facility like that,
2 are they also asking about your gang background and
3 enemies?

4 A. Oh, yeah.

5 Q. And do members of STIU conduct interviews
6 like that?

7 A. Yes.

8 Q. On June 21 of 2013, do you remember
9 meeting with somebody who asked you questions about
10 any gang affiliations you had?

11 A. Yes, I do.

12 Q. And if you recall -- if not, I can refresh
13 your recollection with a document -- but do you
14 recall what your answer was to "Once in a
15 group/gang; how do you get out"? Do you remember
16 your answer to that question?

17 A. I do not.

18 MR. CASTELLANO: May I approach the
19 witness, Your Honor?

20 THE COURT: You may.

21 BY MR. CASTELLANO:

22 Q. Mr. Armenta, I'm going to have you review
23 this document to yourself and then I'll ask you if
24 it refreshes your recollection.

25 A. Yes.

1 Q. Having reviewed that document, does that
2 refresh your recollection?

3 A. Yes, it does.

4 Q. What do you remember about your answer to
5 the question: Once in a group or gang, how do you
6 get out? What was your response?

7 A. You don't.

8 Q. Why did you say that?

9 A. Because from what I learned, what I knew
10 at the time, that once you're in, you don't get out.
11 There is no way of getting out.

12 Q. And typically, once STIU asks you
13 questions like that, do you give up a lot of
14 information to them?

15 A. At that point I wasn't, no.

16 Q. Why not?

17 A. I wasn't really wanting to give any
18 information out.

19 Q. Why wouldn't you?

20 A. Because I was still loyal to the SNM and I
21 was still loyal to who I was, with my pride and my
22 honor and all that.

23 Q. And you said you were there how many
24 months?

25 A. Let's see. Seven. About seven.

1 Q. And even during this time when you were
2 being classified, are you still getting time against
3 your sentence?

4 A. Yes, I'm getting time, yes. It's adding;
5 it's counting.

6 Q. Where do you go after being classified in
7 Los Lunas?

8 A. Depends on your classification level. If
9 you're step 3, you go to a medium. If you're step
10 4, you go to Cruces; 5 and 6, you go to Santa Fe.

11 Q. Where did they tell you you were going?

12 A. To a Level 4.

13 Q. Where did you end up?

14 A. In Cruces, Southern.

15 Q. Do you remember approximately when you
16 arrived at the Southern facility?

17 A. It was a couple of days right before
18 Christmas. I would say the 20th; 19th or the 20th.

19 Q. And do you remember that because it was
20 Christmastime?

21 A. Yes.

22 Q. What year was that?

23 A. 2013.

24 Q. And at that point it doesn't seem like you
25 had too much time left. Were you asked questions

1 about whether or not you wanted to go to any gang
2 drop-out programs or anything like that?

3 A. They did ask me that. They asked me,
4 like, within the first month or two that I was in
5 RDC in Los Lunas.

6 Q. What was your response?

7 A. I responded with a "no." Because I said,
8 "I'm short-timing. I'm probably not going to go
9 anywhere that it's going to matter, so I'll just --
10 no, I'll go ahead and refuse right now, and let it
11 be like that."

12 Q. What do you mean by short-timing?

13 A. Short-timing, I was less than a year to
14 get out.

15 Q. Where were you housed once you arrived at
16 the Southern New Mexico Correctional Facility?

17 A. In 1-A, B pod.

18 Q. And the jury has heard that term before,
19 but is that the blue pod?

20 A. Yes.

21 Q. And who is housed in that pod?

22 A. SNM Gang members.

23 Q. Were you aware of any members or any
24 people housed in that pod who weren't SNM Gang
25 members?

1 A. No.

2 Q. Do you know a person named Ronald Sanchez?

3 A. Yes.

4 Q. And who is he?

5 A. He is Daniel Sanchez' brother.

6 Q. Can you tell the members of the jury
7 whether he was an SNM Gang member?

8 A. He is not an SNM Gang member.

9 Q. Were you aware of any other people who
10 were not SNM Gang members?

11 A. When I first got there, I thought
12 everybody was SNM. But as I sat there for a while,
13 I found out Ron wasn't an SNM Gang member; and
14 another guy named something Hernandez, Polo, he's
15 not an SNM Gang member either.

16 Q. If you know, do you know why they were
17 allowed to live with SNM Gang members?

18 A. They were suspected by the State that they
19 were SNM Gang members, and they put them with us.
20 They've been with us so long that they just, you
21 know, kind of grew on them, I guess. And I mean,
22 Ron, because of his brother -- obviously, they let
23 him live there. Polo -- he, I guess, grew on
24 everybody, and they accepted him.

25 Q. Given the fact that Ronald Sanchez was

1 Daniel Sanchez's brother, did you expect him to have
2 any problems in the pod?

3 A. No.

4 Q. What was Daniel Sanchez's position in the
5 pod?

6 A. At the time I didn't know. After sitting
7 there after a while and asking questions and people
8 telling me that he was the spokesman for the pod.

9 Q. What did it mean to be the spokesman?

10 A. Like the llavero, the car; he holds the
11 keys to the car. Any decisions, anything goes
12 through him.

13 Q. Did any other gang members arrive with you
14 at Southern?

15 A. Yes.

16 Q. Who else arrived with you?

17 A. Mario Rodriguez.

18 Q. Do you know him by any other names?

19 A. Blue.

20 Q. At that point in time did you get along
21 okay with Mario Rodriguez?

22 A. I ran into him a few times. But yeah, we
23 got along.

24 Q. When you first arrived at the pod, who did
25 you actually know?

1 A. The only person that I knew and remembered
2 and that knew me was Dan Sanchez.

3 Q. In addition to Blue?

4 A. Yes, in addition to Blue.

5 Q. Now, what happens when you first arrive in
6 a pod? Are you allowed to circulate with the other
7 inmates?

8 A. Not right away. You're given a few days
9 inside your cell for orientation. Got to see the
10 unit manager. He asks you questions, if you have
11 any violations coming, if you messed up on the
12 streets, if you were supposed to do something that
13 you didn't do, are you okay to live with these guys
14 and, you know, just to make sure that you're safe
15 and you can come out. Do you have any enemies? I
16 said, "No, no, I'm okay. I'm all good."

17 And they let me out.

18 Q. Now, at that point in time, did you have a
19 chance to PC, or go into protective custody?

20 A. Yes, you do.

21 Q. Is that a good thing or a bad thing?

22 A. Depending on who you are, it could be bad.

23 Q. Why would it be bad?

24 A. Because then you'll be known forever as a
25 PC, as a protective custody. They call them PC

1 cases. They're guys that go in protective custody,
2 they're scared, they can't make it, they can't hack
3 it, you know. So they call them PC cases, and
4 that's what they want to do, lock themselves in the
5 room.

6 Q. Once you arrive at the facility, do you
7 have any hygiene or commissary or canteen items when
8 you first get there?

9 A. Yeah. They let you have -- like, when you
10 first get there, they don't let you have all your
11 property. But they let you have the basics, like
12 hygiene and stuff, deodorant, lotion, shower shoes.
13 That's it.

14 Q. What about your legal paperwork?

15 A. Legal paperwork is also accepted.

16 Q. Did you bring any legal paperwork with
17 you?

18 A. Yes.

19 Q. And what do you remember about anybody
20 searching your legal paperwork?

21 A. Nobody searched my paperwork. Nobody
22 asked me anything. I mean, they asked me why I came
23 back, but they didn't -- any alarms didn't come to
24 their heads about why I was there or anything like
25 that, so they didn't ask me for the paperwork.

1 Q. And when you're answering that question in
2 that way, are you talking about other inmates?

3 A. Yes.

4 Q. So are there times when inmates also ask
5 to see your paperwork?

6 A. There's times that happens.

7 Q. Why do they do that?

8 A. Well, they do it if they don't know you,
9 you know. And being that Dan Sanchez knew me and
10 knew that I had protected Michael Armendarres, and I
11 stabbed that dude in Hobbs, that Sureno, that my
12 reputation for that preceded me, and I was okay by
13 that standard.

14 Q. I also want to ask you about whether the
15 correction officers look at your legal paperwork.

16 A. They're not allowed to. Now, I don't know
17 if they do secretly but I doubt it. Most of them
18 really don't care.

19 Q. What do you remember about when you
20 arrived there? Did someone inventory your property
21 when you left the facility and when you arrived at
22 Southern?

23 A. I inventoried it with an officer myself
24 when they packed me up in Los Lunas. And then when
25 I got to Southern, they said in front of me, they

1 said, "You can have, this, this, this for now, but
2 when you go through orientation, we'll give you the
3 rest of your stuff."

4 Q. In your case, do you remember if they
5 physically inspected your legal paperwork?

6 A. They combed through it to make sure there
7 wasn't any contraband, to see if there wasn't
8 anything that was allowed.

9 Q. Anything more than thumbing through it?

10 A. No.

11 Q. Now, during between the December and March
12 timeframe, how are you generally spending your days?

13 A. Well, right away, as soon as I got there
14 in Cruces, I sat in my cell for a few days. I went
15 to speak with the unit manager. He let me out the
16 day before Christmas Eve, and I sat there and
17 commingled with everybody for two days. Then I went
18 back to Los Lunas for a transport, because I had a
19 court date.

20 Q. You mentioned earlier you had a 2011
21 arrest for drug trafficking. Is that the charge
22 that was still pending even when you arrived at
23 Southern?

24 A. Yes.

25 Q. And is that what you got transferred back

1 and forth for to court?

2 A. Yes.

3 Q. And was that an ongoing process in terms
4 of going back to Southern and then going back to
5 court to face your drug-trafficking charges?

6 A. Yes, it was.

7 Q. How else were you spending your time
8 between December and March?

9 A. Back and forth in transport, sitting
10 there, going outside, workout, talking with some of
11 the guys, watching TV, using the phone. We had
12 things to -- you know, Suboxones. We were doing
13 shots, whatever. Anything to pass the time.

14 Q. All right. So can you tell the members of
15 the jury whether you were also doing Suboxone during
16 that time?

17 A. I was.

18 Q. Any other drugs that you were doing during
19 that timeframe?

20 A. No. We were doing tattoos, getting
21 tattoos.

22 Q. Now, when you're doing Suboxone in the
23 pod, are there syringes everywhere? Or what do you
24 do for syringes?

25 A. Not everywhere. There's a few people that

1 I would say are lucky to have them. They're pretty
2 much getting high with everybody else because, you
3 know, they have -- everyone needs that. So if they
4 have it, they're in the car, they're able to get
5 high.

6 Q. And are you supposed to have syringes in
7 the pod?

8 A. No.

9 Q. And since you said there aren't many of
10 them, does this mean that the inmates share the
11 syringes to inject?

12 A. Yes.

13 Q. At some point in time, do you recall
14 receiving information from Mr. Marcantel about
15 people getting out of their pods and things of that
16 nature, or getting out of their cells?

17 A. Yeah. I was -- one of the times that I
18 was at court, he came down and told everybody that
19 he was letting us all out; he was going to give us
20 jobs in the wheelchair program. And eventually we
21 were going to work our way out to general
22 population.

23 Q. So was that a plan he communicated to you
24 guys?

25 A. Yes.

1 Q. What did you know about the wheelchair
2 program?

3 A. Not much. That it was just a job for us,
4 and that we'd be fixing old wheelchairs, sending
5 them to countries that needed stuff that didn't have
6 it.

7 Q. Did you get a job with the wheelchair
8 program?

9 A. I did not.

10 Q. Do you know why not?

11 A. I just got there and then I was back and
12 forth on transport, so they probably felt that it
13 was better that I didn't go in there at the time.

14 Q. Now, in that pod, was there someone living
15 with you by the name Javier Molina?

16 A. Yes.

17 Q. And how did you get along with him?

18 A. We got along all right. I mean, we didn't
19 kick back and chill. He wasn't my best friend or
20 nothing, but we were okay.

21 Q. Do you recall if he ever discussed about
22 somebody named Jesse Sosa?

23 A. Yes, he did. He asked me if I was in Los
24 Lunas with him.

25 Q. Did that have any meaning, though, at that

1 time?

2 A. No.

3 MS. JACKS: Excuse me. I'm going to
4 object. This appears to be eliciting hearsay.

5 THE COURT: Well, let's not do that.
6 Sustained.

7 MS. JACKS: Can we strike the answer,
8 please?

9 THE COURT: I'll strike the answer.

10 MR. CASTELLANO: Your Honor, a question is
11 not hearsay. Questions and commands are not hearsay
12 and I think, therefore, a question is admissible
13 under the rules of evidence.

14 THE COURT: Well, sometimes. But this
15 particular one I'm going to sustain. Sometimes a
16 question can be an assertion.

17 BY MR. CASTELLANO:

18 Q. Let me ask you what you told Mr. Molina
19 about Jesse Sosa. What did you tell him?

20 A. I told him he was there with me, I was
21 there with him.

22 Q. And did that conversation have any
23 significance to you at that time?

24 A. No.

25 Q. I want to take you now to March 6 of 2014.

1 Do you remember anyone arriving at the facility, in
2 particular, the building where you were staying?

3 A. Yes.

4 Q. Who arrived?

5 A. Lupe Urquizo, Mauricio Varela, and some
6 other kid that I don't know, but they call him
7 Cartoon.

8 Q. Cartoon?

9 A. Yeah, Cartoon. I don't know his legal
10 name.

11 Q. Mr. Armenta, let me have you move a little
12 closer to the microphone. I want to make sure
13 everyone can hear you.

14 And do you recall if there was any talk in
15 the pod when those two people arrived?

16 A. No, not right away.

17 Q. You say, "Not right away." What
18 eventually happened within your pod, knowing these
19 two had arrived?

20 A. Well, I had seen them walking through the
21 sally port, and Blue happened to be walking by. I
22 yelled at him, "Hey, look, there is Marijuano" --
23 who is Lupe Urquizo -- "and Archie" -- who is
24 Mauricio Varela.

25 And he ran to the doors, like, "Hey,

1 what's up?"

2 And they went to A pod, which is yellow
3 pod. They went into the pod. And Blue, Timothy
4 Martinez, Red, ran to the door that connects blue
5 pod to yellow pod, and went to go talk to Archie and
6 Marijuano.

7 Q. Now, so the jury understands, are blue pod
8 and yellow pod next door to each other?

9 A. Yes.

10 Q. Are there doors that connect those two
11 pods?

12 A. Yes.

13 Q. Can you, as an inmate, pass through those
14 doors anytime you want?

15 A. No, they're locked all the time.

16 Q. How do you communicate through the yellow
17 pod door?

18 A. Through the cracks, through the doorway.
19 It's very easy.

20 Q. Do you recall anything that Mr. Rodriguez
21 asked at that time?

22 A. I remember him saying, "You have it? Let
23 me see it."

24 And then he said something about, "Oh,
25 they'll give you your property tomorrow. As soon as

1 you get it, let me get it."

2 Q. At that point, did you know what he was
3 talking about?

4 A. No.

5 Q. What did you think he was talking about?

6 A. I had no idea.

7 Q. And how did Mr. Rodriguez seem when he was
8 asking these questions? How did he appear to you?

9 A. Regular, normal.

10 Q. And how was it that you were able to see
11 Mr. Urquizo and Mr. Varela from your pod?

12 A. Each door leading out of our pod has a
13 window in it and you could see on the outside.

14 Q. Now, from your perspective, other than
15 their arrival, did it otherwise seem like a normal
16 day to you on the 6th?

17 A. Yes.

18 Q. Anything else you remember from the 6th
19 that stands out?

20 A. No.

21 Q. Turning your attention now to March 7,
22 what day is March 7?

23 A. Friday.

24 Q. And what happens on Fridays?

25 A. We go to the big yard, or to the gym.

1 Q. And how does that work? You mentioned two
2 options. Do you have an option?

3 A. We rotate between the three pods that are
4 in the one unit. So one pod will go to the gym and
5 the other two pods will hit the two big yards
6 outside. And then the next week it will be another
7 pod going in the gym, and it will just rotate every
8 three weeks.

9 Q. Do you remember how many people were in
10 your pod at the time?

11 A. There was 11.

12 Q. And did you know who was in the other
13 pods, starting with yellow pod?

14 A. A few different people.

15 Q. Who did you know who was in yellow pod?

16 A. Personally, I don't know any of them, but
17 I know names of people.

18 Q. Right. In other words, when you
19 communicate with members, who do you learn is in the
20 other pod?

21 A. Lazy, Carlos Herrera; Alex Munoz. A bunch
22 of guys. There was a couple of guys that left our
23 pod and went to that pod, too.

24 Q. Who was that?

25 A. Dale, Dale Chavez. And I can't remember

1 his name. I have no idea.

2 Q. Will you tell the members of the jury
3 whether Billy Cordova was in yellow pod?

4 A. Billy Cordova was in yellow pod.

5 Q. Now, you mentioned Lazy, or Carlos
6 Herrera. Did you know what his position was in
7 yellow pod?

8 A. I learned that he also --

9 MS. BHALLA: Objection. Hearsay, Your
10 Honor.

11 THE COURT: Well, why don't you lay a
12 foundation first to see if he knows from his
13 personal knowledge rather than from somebody else?
14 BY MR. CASTELLANO:

15 Q. Now, when you get to a pod like that, does
16 anyone lay out for you who the leaders are in the
17 pod and who you should be listening to?

18 A. No, not right away. It's not something
19 that -- I mean, I guess they would be proud to have
20 that position, but they're not too adamant about
21 letting anybody else know right away who --

22 Q. You said "Not right away." Eventually
23 through your interactions with other gang members,
24 do you learn who is leading each pod?

25 A. Yeah.

1 Q. How do you learn that?

2 A. By talking, a sewing circle.

3 Q. Is it part of the culture of the gang, to
4 know who is leading and whose orders --

5 A. It should be common knowledge to know who
6 that is. That way, nobody just comes up to you and
7 say, "Hey, you got to go do this." "Well, who are
8 you? Why are you telling me to do this?"

9 Q. In other words, is there a chain of
10 command that needs to be followed?

11 A. Yeah, there is.

12 Q. And when you get to a pod, are you
13 learning about the structure of that pod and, like
14 you said, who you have to answer to and who you
15 don't?

16 A. Yes.

17 Q. And along those lines, then, did you learn
18 about Mr. Herrera's position?

19 A. Yes.

20 MR. MAYNARD: Your Honor, may I object?
21 The answer is still going to be hearsay. I don't
22 think a foundation has --

23 THE COURT: How do you avoid this being
24 hearsay, Mr. Castellano?

25 MR. CASTELLANO: Well, it's part of the

1 gang rules and part of the gang culture that they
2 have to know, as he stated, whose orders you have to
3 follow and whose orders you don't have to follow.
4 So it's important in terms of the gang rules.

5 THE COURT: I think this is still closer
6 to just coming in for the truth, so I'll sustain.

7 BY MR. CASTELLANO:

8 Q. Now, without saying names, were you aware
9 of who leaders were of yellow pod and also green
10 pod?

11 A. Yes.

12 Q. And once again, without telling us names,
13 how did you know eventually how those people were
14 leaders in those pods?

15 A. Just through regular talk, conversation
16 throughout the days; being curious, asking
17 questions; it slipping from other people's mouths,
18 stuff like that.

19 Q. I want to take you back to the time on
20 March 7 when you said you went to big yard. What
21 time of the day is that?

22 A. 10:00 in the morning.

23 Q. And throughout the day, is there typically
24 a schedule that's kept by the facilities in terms of
25 yard lockdown time, count, lunch, things of that

1 nature?

2 A. Yes.

3 Q. Who do you recall in the morning who went
4 out to yard?

5 A. We all did, except for the people that
6 work in the wheelchair program. They were at work.

7 Q. Let me ask you, then, if Mario Rodriguez
8 went out to yard that morning.

9 A. Yes, he did.

10 Q. What about Daniel Sanchez?

11 A. Yes, he did.

12 Q. Ronald Sanchez?

13 A. Yes, he did.

14 Q. Jerry Montoya?

15 A. Yes.

16 Q. Javier Molina?

17 A. Yes.

18 Q. And you said people who weren't there were
19 at work?

20 A. Yeah. The only one that didn't also go
21 was Rudy Perez. He was in the room. He hardly ever
22 went to rec. He wasn't really too healthy to be
23 walking all the time.

24 Q. So you mentioned Rudy Perez. And was
25 Timothy Martinez at work?

1 A. Yes.

2 Q. What other names do you know Timothy
3 Martinez by?

4 A. Red.

5 Q. Now, you mentioned Rudy Perez didn't leave
6 his room a lot of the time. Do you know if people
7 looked out for him in the pod?

8 A. In what sense? I mean, he had his own
9 money. There was this guy that would help him.
10 Like I think he got paid to help him if he needed
11 the help.

12 Q. Do you remember who helped him?

13 A. Polo, the Hernandez guy.

14 Q. Do you remember if anyone ever took Mr.
15 Perez anywhere to appointments at the facility?

16 A. No, I never seen him leave the pod.

17 Q. What were you guys doing in the yard that
18 morning?

19 A. Taking pictures.

20 Q. Is that a common thing to do in the
21 prison?

22 A. Yeah. Every once in a while, whenever
23 they feel like they want to take some pictures,
24 yeah, the gym officer will give us the camera and we
25 can take pictures.

1 Q. So in other words, do you have a camera or
2 does somebody provide the camera to you?

3 A. They provided us with the camera. Most of
4 the time it's the gym officer that takes the
5 pictures. But he wasn't there that day. So the
6 officer that was running the yard -- he just gave us
7 the camera and we were taking pictures.

8 Q. What was the environment like to you that
9 morning? Did it seem normal? Did you notice
10 anything else about what was going on there?

11 A. Not during the yard or before.

12 Q. At some point in time can you tell whether
13 somebody's property arrived?

14 A. While we were in the yard, I seen the
15 officer bringing the property for the guys that came
16 the day before.

17 Q. How do you know it's a property officer?

18 A. Because they go through, you know, posts
19 every six months. Sometimes the property officer
20 stays a year, two years, but you know, when you come
21 in from transport or you're coming in from another
22 prison, the property officer is there in ID. And
23 when I had came back a couple weeks before, he was
24 the property officer.

25 Q. And what time do you think this was?

1 A. About 10:30, 10:45. Right before 11:00.
2 Because 11:00 is when they call us back in for
3 count, lockdown.

4 Q. All right. Now, once the cart goes by can
5 you tell whether anyone else is paying attention to
6 that cart or interested in it?

7 A. No.

8 Q. What happens after yard?

9 A. We go back in and lock down for count, get
10 fed lunch.

11 Q. You said two things there. What happens
12 when you get locked down?

13 A. We go back into our unit, to the pod. We
14 go to our individual cells. They shut the doors and
15 we sit there for an hour while they do their count.
16 The COs come, make sure you're in there, write down
17 on the paper that you're there. They leave, and a
18 few minutes later they come back with the trays; you
19 eat lunch. After you eat lunch, they open the doors
20 and let you out.

21 Q. At some point in time do you notice Mr.
22 Rodriguez doing anything in the pod?

23 A. No. Him and Dan are talking. I'm
24 watching TV. Everybody is doing their own thing at
25 that time. At some point after chow, after

1 lunchtime, you know, they get called to the door.
2 Mario gets called to the door, Blue, and he receives
3 something from somebody next door. I'm not sure who
4 gave it to him. But I seen him and Dan Sanchez
5 huddle up around the lower tier by cell 11, by
6 Blue's room, and they were sitting there reading
7 something.

8 Q. Did you know what they were reading?

9 A. No.

10 Q. Did you know it was passed?

11 A. No.

12 Q. When you say "the door next door," is that
13 the door to yellow pod?

14 A. Yes, it is.

15 Q. What else do you notice about Mr.
16 Rodriguez and Daniel Sanchez looking at that
17 paperwork?

18 A. They're just right there at that point.
19 They're huddled up reading that paperwork. Dan
20 Sanchez and Mario Rodriguez. I know I'm still
21 watching TV. I look to the left, and they're at the
22 door again. I believe they passed the paperwork,
23 whatever it was, back, and they were talking with
24 someone, and Mario was looking at me, just staring
25 at me, while he was talking to whoever it was next

1 door.

2 Q. Did that mean anything to you at that
3 point?

4 A. At that time, no. I mean I was a little
5 curious as to why he was just staring at me, but I
6 just took it as whatever; he was looking at
7 something while he's listening to something, and
8 that's normal. You sit there and you listen to
9 somebody and you're looking at the TV or the phone
10 or somebody else; it's just normal. So I just took
11 it as that and I continued to watch television.

12 Q. So did it appear as if he was passing
13 something back under the door?

14 A. Yeah.

15 Q. Did you hear him call out any names or did
16 you know who it was going to at that time?

17 A. No.

18 Q. Do you know about what time that is when
19 the paperwork goes back under the door?

20 A. It was around, I'd say, anywhere from
21 12:30 to 1:30, within that hour.

22 Q. I know I'm testing your memory here, but
23 why do you think it's during that timeframe?

24 A. Because we had just came out. I was
25 watching TV. And right after that happened -- not

1 right after, but sometime after, we all went into
2 our rooms. I don't remember really if it was a
3 lockdown, or if we just went in our rooms to chill
4 for a little while, lay down and kick back, relax,
5 before we went outside to our other rec. Because we
6 get yard two times a day, and that's a smaller yard,
7 so that's what we did. And we were in our rooms,
8 and that was at 2:00.

9 Q. What is the smaller yard called?

10 A. The phone yard.

11 Q. What types of things do you have in the
12 phone yard?

13 A. Workout equipment, a bag, punching bag,
14 basketball, a ball for handball.

15 Q. What time do you remember the phone yard
16 time being? What time would you go out?

17 A. 3:00. That day it was 3:00. Some days
18 it's 2:00, depending on rotation, again.

19 Q. And how long would you be at phone yard?

20 A. One hour.

21 Q. What happens to everybody when they're out
22 at phone yard? Basically what are you doing at that
23 time?

24 A. Outside walking, working out, playing
25 basketball, playing handball.

1 Q. Who went outside?

2 A. Myself, Dan Sanchez, Jerry Montoya, and
3 Javier Molina.

4 Q. Now, you didn't mention Mario Rodriguez'
5 name.

6 A. No.

7 Q. Where was he?

8 A. He was in his cell. He stayed in his
9 cell.

10 Q. Did you notice anything about his cell?

11 A. He had a curtain up.

12 Q. So with the curtain up, could you see
13 inside his window?

14 A. No.

15 Q. Did you know what he was doing in there?

16 A. I called him. I said, "Hey, yard. Blue,
17 yard call. Let's go.

18 He goes, "I'm not going. I'm taking a
19 shit."

20 All right. That seemed normal because the
21 curtain was up. And if -- when the curtain is up,
22 basically you're number 2.

23 Q. Do you notice any conversations with any
24 other people during that rec time?

25 A. Yeah, we were at rec. Me and Dan were

1 walking. We had played handball for a while with
2 Javier and Jerry Montoya, and me and Dan took a
3 break. And we were walking around talking. And
4 another inmate walked out because he had a meeting
5 or he had to talk to the unit manager about
6 something. And that inmate came and talked to us,
7 talked to Dan Sanchez.

8 Q. Who was that inmate?

9 A. Benjamin Clark.

10 Q. Do you know what pod he was in?

11 A. Green pod.

12 Q. Do you know what the topic of discussion
13 was between those two?

14 A. It was about Lupe Urquizo.

15 Q. What was the issue there?

16 A. Well, Benjamin Clark wanted him to get
17 hit.

18 MS. JACKS: Objection, hearsay.

19 MR. CASTELLANO: It's not for the truth of
20 the matter asserted, Your Honor.

21 THE COURT: Lay some foundation as to how
22 he knows these discussions.

23 BY MR. CASTELLANO:

24 Q. Did you hear the conversation?

25 A. I was right there right next to Dan

1 Sanchez and Ben Clark.

2 Q. So when you're at rec and you have a
3 different pod, how are the pods able to talk to each
4 other outside?

5 A. There is a gate, like a fence that cordons
6 off the rec, and to the offices of the unit manager,
7 sergeant, stuff like that.

8 Q. So where were you guys standing, you and
9 Daniel Sanchez, and where was Benjamin Clark
10 standing?

11 A. Me and Dan were on the inside of the rec
12 yard, and Benjamin Clark was on the outside of the
13 rec yard.

14 Q. Was he in the cage, too, or was he passing
15 through?

16 A. No, he was passing through. See, the rec
17 is inside of a gated area, so there is the gated
18 area, the phone yard. And then there is another
19 gated area where the recreation actually takes
20 place.

21 Q. So you're standing here, and you hear some
22 conversation between the defendant Sanchez and Ben
23 Clark?

24 A. Yes.

25 Q. What's the topic of the conversation?

1 MS. JACKS: Same objection, hearsay.

2 THE COURT: Why don't you approach and
3 tell me what's about to be said here?

4 (The following proceedings were held at
5 the bench.)

6 THE COURT: Is this one of those
7 statements that have been identified?

8 MS. JACKS: We haven't heard about this
9 statement before this morning.

10 THE COURT: What is the statement?

11 MR. CASTELLANO: Ben Clark said to Daniel
12 Sanchez they were going to mess up Lupe Urquizo, and
13 Daniel Sanchez said, "That's not going to happen."
14 That's it.

15 THE COURT: Okay. And how does that --

16 MS. JACKS: I'll withdraw the objection.

17 THE COURT: Okay.

18 (The following proceedings were held in
19 open court.)

20 THE COURT: All right, Mr. Castellano.

21 MR. CASTELLANO: Thank you, Your Honor.

22 BY MR. CASTELLANO:

23 Q. What did Mr. Clark say to Mr. Sanchez?

24 A. That he wanted Lupe Urquizo hit.

25 Q. What was Mr. Sanchez' response?

1 A. Mr. Sanchez said, "No, that's not going to
2 happen."

3 Q. Anything else you recall happening during
4 the 3:00 to 4:00 recreation time?

5 A. No. We finished having the conversation.
6 Well, I mean I was there, but I didn't converse; I
7 didn't put my two cents in. It was between them
8 two, but I was right there. They finished talking,
9 and me and Dan continued to walk in the yard. And
10 then 4:00 came, and it was time to go in for count.

11 Oh, wait, wait. We remembered seeing the
12 guys from the wheelchair program coming back.

13 Q. So what time is it? Are they coming back
14 as you're coming in from count, or how does --

15 A. No, they're coming back before we're
16 allowed back into our pod, before count. So I would
17 say they get off around 3:30, 3:45, and they walk
18 back from wherever the job was back to the unit.

19 Q. So you think that's approximately 3:30 to
20 3:45?

21 A. Yeah, right before 4:00 for count.

22 Q. And how were you able to see them coming
23 back from the wheelchair program?

24 A. Because we can see our front doors to the
25 unit from the rec yard. You can see them walk by.

1 Q. And then are you able to even see them
2 pass by your location and back into the building?

3 A. Yes.

4 Q. Okay. Now that you're coming back from
5 rec yard, do you once again return to your
6 individual cells?

7 A. Yes.

8 Q. And is that another time to do a count?

9 A. Yes, it is.

10 Q. In your mind, does it seem like a normal
11 day, like any other day?

12 A. Yeah.

13 Q. Are you aware of anything going on in the
14 pod?

15 A. No, not at all.

16 Q. How long approximately are you in your
17 cells after you come back in at 4:00?

18 A. An hour. For the most part of an hour.

19 Q. And what typically happens during that
20 time when you're back in your cell?

21 A. We're watching TV, we're getting some
22 laydown time, resting the body, whatever. The COs
23 are coming through counting the heads again, and we
24 get fed our dinner.

25 Q. When you got fed your dinner, are you

1 eating it inside your cell or outside your cell?

2 A. Inside our cell. Most times it's inside
3 our cell. Sometimes dinner is a little late, so we
4 get outside our cells and we eat on the tables.

5 Q. Did that happen on that day?

6 A. No.

7 Q. What happened when the doors open?

8 A. The doors open, people came out. We
9 already had eaten our dinner, so we had our trays
10 still in our cell. People were bringing their trays
11 down from their cells to the front door to stack
12 them up so the COs can pick them up. And at that
13 time Mr. Sanchez had walked down, called me over to
14 the table that we usually sit at, because I sit with
15 him and his brother for dinner, and he told me that
16 the paperwork had dropped on Javier and that we were
17 going to kill him.

18 Q. Who was Javier?

19 A. Javier Molina.

20 Q. What does that mean to you when someone
21 says the paperwork dropped?

22 A. That it hit to wherever we were at; that
23 it's there; it came; it arrived at our location.

24 Q. Why would the paperwork be important?

25 A. Because without paperwork, you couldn't

1 act the way we did without it.

2 Q. Now, you used the term, "We're going to
3 kill Molina." What did that mean for you at that
4 time?

5 A. To me, I just thought, you know, it could
6 have been anybody in the pod. We're going to kill
7 him. You know, the paperwork is here. This is
8 what's going to happen.

9 Q. At this point in time, how many days do
10 you have approximately until you're getting out of
11 prison?

12 A. Just a little -- like 43, 44 days.

13 Q. At some point do you learn who is picked
14 to do the murder?

15 A. Well, when he said that we were going to
16 kill him, I said, "Okay, who?"

17 And he said, "Well, you are, you and
18 Plazi."

19 And I told him, "No, I'm not."

20 And he goes, "Yeah, you are."

21 I said, "Dude, I get out in, like, 40-some
22 days. I'm going home."

23 "Okay. You're going to kill him."

24 And I said, "No, I'm not," one more time.

25 And that's when he told me, he goes, "No, you're

1 going to kill him, or you'll be on the other side of
2 that, too."

3 Q. You said he said it would be you and
4 Plazi?

5 A. Yes. That's Jerry Montoya.

6 Q. So at this point you're short to the door,
7 and you learn about this. What's going through your
8 mind?

9 A. All kind of things.

10 Q. Like what?

11 A. How can I get away from it? How can I not
12 do this? Just everything. I mean, do I have to
13 kill this guy? Because there towards the end, once
14 he said that my life was in danger, as well, you
15 know, I finally succumbed to his demands, and I went
16 with everything that was supposed to happen, because
17 I did not want to get killed myself.

18 Q. What did it mean to you that the order was
19 coming from Daniel Sanchez?

20 A. Well, I mean, like I said, he was the
21 spokesman of the pod and he has the authority, along
22 with other people and their approval to say, "Yeah,
23 okay. It's all right. Let's do it. The paperwork
24 is legit. Let's get it done."

25 Q. Now, as a member of the gang, did you know

1 or think that a day like this would come?

2 A. Yeah. Yeah.

3 Q. Why is that?

4 A. Because you're a gang member, prison gang
5 member, and it's kind of required of you. Did I
6 think it was going to come for me that soon? No, I
7 already had earned my bones, so I thought, and I
8 didn't think I would have to do anything like that,
9 especially being so short to the door. You think
10 you know your brothers love you. You think that
11 they'll do anything to look out for you and be in
12 your best interests. "Hey, he's getting out. You
13 don't do that. You're more beneficial to us out
14 there on the streets." It wasn't like that.

15 Q. You said something a second ago, you said
16 that you thought that you had earned your bones.
17 Was there some disagreement about whether you had or
18 had not?

19 A. Yeah. When I went to get this tattoo on
20 my head with the Zia and the state, I also wanted
21 the S in it, too. And Mr. Sanchez and Mr. Rodriguez
22 both told me no, because I didn't earn my bones in
23 an honorable way; it was all in self-defense; and
24 that I didn't earn it the right way.

25 Q. At this point, was there any discussion

1 with you doing this to earn your bones?

2 A. No, it was just said it was time to put in
3 some jale.

4 Q. What's jale?

5 A. Work.

6 Q. After this conversation with Mr. Sanchez,
7 did you have a conversation with Mr. Rodriguez?

8 A. Yes. He told me to go to Blue's room.

9 Q. Who told you?

10 A. Dan Sanchez.

11 Q. Did you go to Blue's room?

12 A. I did.

13 Q. What happened there?

14 A. Mr. Rodriguez handed me a shank.

15 Q. And did you have any discussion with Mr.
16 Rodriguez about what the shank was for?

17 A. Yes, he told me how to -- because he had
18 it wrapped with some shoestring or shoelace,
19 whatever, he had it looped with a lasso, so he told
20 me, "Wrap it around your wrist. Make sure it's on
21 there tight so it doesn't fall off your hand."

22 It could either go up -- he told me how to
23 do it, showing me how to use the knife, use the
24 fierro, the shank, in a stabbing motion, and
25 however.

1 Q. What did it look like otherwise? Was it a
2 big piece of metal, small piece of metal?

3 A. It was almost a whole foot long. I'd say
4 about 10, 11 inches, black, and about the width of a
5 pencil.

6 Q. During this timeframe, do you learn how
7 other SNM members are supposed to be involved in
8 this Molina hit?

9 A. Yes.

10 Q. What do you learn?

11 A. I knew when Dan -- Mr. Sanchez told me
12 about Javier and Plazi, who was Jerry Montoya, was
13 going to do it with me, and that Red, Mr. Martinez,
14 at that point was going to knock him out; he was
15 going to punch him and knock him out. And that's
16 when me and Jerry were going to go in and start
17 stabbing him.

18 Q. How did you learn that Red, or Timothy
19 Martinez, was going to be involved?

20 A. After I got the shank, Blue -- Mario
21 Rodriguez -- and Mr. Sanchez had approached me at
22 different times and they told what was going to
23 happen and this is what Red is going to do, Dan
24 Sanchez had told me what Red was going to do. Blue
25 had told me what I was going to do afterwards with

1 my shank. You know, I had asked Blue at that point,
2 too, I said, "Well, what about the cameras?"

3 He said, "Well, Dan doesn't want them
4 covered."

5 "Okay, why not?"

6 "Because he just don't."

7 "Whatever," and walked away and just
8 waited.

9 Q. Why was that important to you to cover the
10 cameras?

11 A. Because cameras are cameras. They'll see
12 you doing what you're not supposed to be doing.

13 Q. And how did you feel about the fact that
14 the cameras would not be covered?

15 A. I didn't like it.

16 Q. You mentioned something about -- I think
17 Mr. Rodriguez explaining to you what you would do
18 with your shank afterwards. What were you supposed
19 do with it?

20 A. I was supposed to give it to Mr. Sanchez.
21 He was supposed to get rid of it for me.

22 Q. What was supposed to happen to Mr.
23 Montoya's shank?

24 A. Mr. Rodriguez was going to take care of
25 that one.

1 Q. So as this plan starts progressing, do you
2 think this is going to happen that day?

3 A. Yes.

4 Q. How are you feeling?

5 A. I'm scared, nervous. I'm -- it all seemed
6 like I was in a dream, the rest of that, until it
7 happened; and everything was just, like, not real.
8 It was weird. I was not myself. Everything was
9 just crazy.

10 Q. So once you have the shank, is there any
11 point in time when you go back into your cell?

12 A. Yes.

13 Q. And what happens during that time?

14 A. That's when I go in my cell and I wrap it
15 around my wrist and put it inside my pants.

16 Q. And what time is it that you're in your
17 cell?

18 A. Anywhere from 5:05 to 5:15. The doors
19 were still open, so I was in and out different
20 times.

21 Q. At some point do the doors close?

22 A. Yes.

23 Q. What are you doing during that time when
24 the doors are still closed?

25 A. I'm in the day room, walking around. I go

1 and talk to Plazi, Mr. Montoya, because he had
2 called me and he was, like, "Well, what do we do?"

3 "Oh, what can we do? There is nothing we
4 can do. Just do whatever they want and we should be
5 all right."

6 He said, "Well, just let me go first and
7 then you go in and get yours. That way, you don't
8 stab me and we don't stab each other, if we're
9 stabbing together."

10 I was, like, "All right. Whatever."

11 Q. From your conversation with Mr. Montoya,
12 did he seem very excited about this plan?

13 A. No, he -- he was scared and nervous, just
14 like I was. He didn't want to show it. You know,
15 in that environment, nobody wants to show that type
16 of fear or weakness or anything like that, but you
17 could see it in his eyes.

18 Q. All right. So at this point the doors are
19 closed, but you're outside of your cells; is that
20 correct?

21 A. Yes.

22 Q. What happens once the pod doors open?

23 A. Two officers and the nurse walk in.

24 Q. Do you know why they're there?

25 A. For med pass.

1 Q. What's that?

2 A. The nurse comes through and passes out our
3 meds.

4 Q. Did you know where the shanks came from?

5 A. At the time, no, I did not.

6 Q. All right. So at this point now you have
7 how many correction officers entering the pod?

8 A. Two.

9 Q. And how many nurses?

10 A. One.

11 Q. All right. So you're at a point where you
12 have corrections officials in the pod and you've
13 been ordered to hit somebody. Is this a chance for
14 you to tell the corrections officer what's going on
15 and get out of this?

16 A. It would be, yeah. But being around the
17 individuals that I'm around, being in the gang that
18 I am in, these guys are ruthless. You try to go and
19 talk to a CO and tell them what's going on, they're
20 going to attack you right there. There is no nurse
21 or cop that's going to stop them from doing what
22 they need to do or stopping you from what you're
23 trying to do.

24 Q. Is it fair to say that you could have done
25 that?

1 A. Yes, I could have.

2 Q. And how many chances did you have to
3 approach the corrections officers or the nurse?

4 A. Probably a couple. I would say a couple
5 times.

6 Q. So about how long are they in the pod?

7 A. Anywhere from five to 10 minutes. She
8 goes upstairs, goes downstairs. There's only, like,
9 three or four people that get meds. She went
10 upstairs for Jason Wright, because he was in his
11 room. He didn't want to come out. So she went to
12 his room, handed him his meds; went to Mr. Perez'
13 room, handed him his meds; and then gave meds, I
14 believe, to Ron Sanchez. He took meds, too, at that
15 time.

16 Q. What are Daniel Sanchez and Mario
17 Rodriguez doing during the time that the COs and the
18 nurse are coming there?

19 A. Dan Sanchez stayed at the table most of
20 the time where we sit and eat dinner. He never
21 really moved from there. Mario Rodriguez was back
22 and forth from Javier's room to the day room, back
23 up to Javier's room, and just back and forth.

24 Q. So as best as you remember, from the time
25 the doors open and the corrections officers walk in,

1 how much time passes between then and the time you
2 enter Javier Molina's room?

3 A. Ten, fifteen -- about fifteen minutes.

4 Q. All right. So what are you doing during
5 that time?

6 A. I'm walking around. I'm in a daze. I'm
7 figuring -- I'm trying to figure out what I can do.
8 I know I don't have much options now the COs are in
9 there. Should I take the risk? Should I take the
10 chance of telling them, getting stabbed right there
11 in front of them, or beat up, or whatever they were
12 going to do or what they might have done if I would
13 have done that?

14 Q. Had you been in this position before?

15 A. No.

16 Q. So eventually what happens? Where are you
17 waiting as things sort of fall into place?

18 A. By my room, in front of my room on the top
19 tier.

20 Q. At some point does Mr. Montoya join you?

21 A. Yes.

22 Q. And what are you guys waiting for?

23 A. We're waiting for the sign that Dan told
24 me that when we start walking into the room. Once
25 we start walking into the room is when Red puts

1 Mr. Molina in a chokehold.

2 Q. So at some point in time from where you
3 are, do you see Mr. Rodriguez and Timothy Martinez
4 enter Javier Molina's cell?

5 A. Yes.

6 Q. And do you --

7 A. They're in the room.

8 Q. Do you have an idea about what's going to
9 happen when they go in there?

10 A. Yeah.

11 Q. Do you see what happens once they go in?

12 A. Yes.

13 Q. What do you see?

14 A. Well, they're getting ready to do some
15 Suboxone. That was, you know, the plan to get him
16 in there and think everything was okay; they're
17 friends. So it was very -- he was very comfortable
18 going in a room with them. And I see Red get on the
19 toilet, reach over Javier Molina and put his arm
20 around his neck and choke him out.

21 Q. What happens next?

22 A. Then Mr. Molina goes out. He just falls
23 limp.

24 Q. What do you and Jerry Montoya do then?

25 A. Me and Jerry Montoya, we get up and walk

1 towards the room.

2 Q. To do what?

3 A. To stab and kill Mr. Molina.

4 Q. So tell the members of the jury what
5 happened, please.

6 A. We walked into the room, and at first they
7 said, "Hold on. Hold on. Wait."

8 We hesitated for a minute.

9 Q. Who said that?

10 A. I think it was Blue. They said, "Wait,
11 hold on," because they didn't have him in the
12 position they wanted him in yet.

13 Jerry walked in. I walked in right after
14 him. Jerry was on his left side -- no, on his right
15 side, and I was on his left side. And I began
16 stabbing him right along the same time Mr. Montoya
17 was. Mr. Montoya was hitting him more in the center
18 of the chest. I was hitting him more on the left
19 flank of him.

20 At some point he said, "Slow down,
21 Creeper. Move. I don't want you to stab me."

22 Q. Who said that?

23 A. Mr. Montoya. And so I got up and I moved
24 around to the other side, and I began stabbing him
25 on this side. So at that time, while we were

1 stabbing him, he came to. Mr. Molina came back from
2 the knockout that they gave him.

3 Q. What did he do?

4 A. He began convulsing, and he got up. He
5 was bright-eyed, and said, "Like, what's going on?"

6 He tripped out. And he was saying, "All
7 right. All right. You guys got me. All right,
8 bros. You got me, you got me. That's it."

9 And that's when Mr. Rodriguez began to
10 say, "Get him. Don't let him out of the room. Get
11 him. Get him."

12 And we tried to attack him again but, you
13 know, Mr. Molina is kind of a big guy, heavyset
14 dude, and he bulldozed his way out of the room. He
15 got past us and ran out of the room.

16 Q. Do you think you would have been able to
17 take Mr. Molina by yourself in what I'll call a fair
18 fight where you're both conscious?

19 A. I don't underestimate any man. I don't
20 know. He was a little stockier and bigger than me,
21 but you know, I didn't know the man's skills or what
22 he was capable of.

23 Q. What happens when he runs out of the room?

24 A. He runs out of the room and begins to run
25 downstairs to the day room. Mr. Rodriguez, Blue, is

1 saying, "Get him, Creeper. Get him, Plazi. Go get
2 him." Because you know, he's still walking, he's
3 still standing up. "Go get him."

4 So we follow him; first Jerry and then me.
5 And as we're walking down the stairs, he's by the
6 door. He's walking down the stairs. Jerry comes
7 down. I come down. We attack him right there by
8 the front door. You can't really see him on the
9 camera, but you can see us and we're attacking him.

10 Q. You said you can't see him on the camera.
11 Have you had a chance to look at that video?

12 A. I have.

13 Q. All right. At this point in time, are
14 there any corrections officers or any law
15 enforcement personnel in the pod?

16 A. No.

17 Q. So just inmates?

18 A. Just inmates.

19 Q. And at what point do the doors open or do
20 the corrections officers respond?

21 A. Well, the officer that was in the control
22 up above the pods that can see in all three pods --
23 he had seen what was going on. I noticed him that
24 he saw that what was going on. And he went to
25 yellow pod, banged on the window and notified those

1 officers over there that something was going on. I
2 seen all that while I was walking down the stairs
3 and seeing what he was doing. While we were
4 attacking Mr. Molina downstairs, I seen the officers
5 that were in the pod before at the window watching
6 what was going on.

7 Q. Is the door opened or closed at that time?

8 A. It's closed.

9 Q. And --

10 THE COURT: Mr. Castellano, would this be
11 a good time for us to take our morning break?

12 MR. CASTELLANO: Yes, Your Honor.

13 THE COURT: All right. We'll be in recess
14 for about 15 minutes. All rise.

15 (The jury left the courtroom.)

16 THE COURT: All right. We'll be in recess
17 for about 15 minutes.

18 (The Court stood in recess.)

19 THE COURT: Let's go on the record.

20 Ms. Bhalla, Mr. Maynard, when you have a
21 chance, give me the inconsistent statement you're
22 wanting to introduce as well as what it's
23 inconsistent with. I know that may be early to ask
24 you that because it may be on the tapes.

25 MS. BHALLA: It's not early, Your Honor.

1 It's funny you asked me. I'm working on a trial
2 brief right now, and I'm putting statements at issue
3 in that brief so you can review them with the
4 document numbers.

5 THE COURT: Are they going to be on the
6 tapes? Is that what you're going to be -- things
7 coming in on the tapes that you think are
8 inconsistent?

9 MS. BHALLA: Yes, Your Honor.

10 THE COURT: And then you're going to tell
11 me -- I think your situation might be different than
12 Mr. Perez'.

13 MS. BHALLA: I believe that it is, Your
14 Honor.

15 THE COURT: All right. Well, let's take a
16 look at it.

17 MS. BHALLA: Thank you, Your Honor.

18 THE COURT: Anything else we need to
19 discuss while we're waiting, Mr. Castellano?

20 MR. CASTELLANO: No, Your Honor.

21 THE COURT: Any of the defendants?

22 MS. DUNCAN: This may be a nonissue at
23 this point.

24 THE COURT: I like nonissues.

25 MS. DUNCAN: It's Javier Molina's mother,

1 I believe, was in the courtroom and getting pretty
2 upset. She's not here now, but a juror or two
3 looked at her while she was crying and covering her
4 face. So I appreciate it -- her lawyer intervened
5 and got her out of the courtroom. So I ask we
6 continue to monitor that.

7 THE COURT: I see Mr. Lilly back there.
8 It seems like you're trying, but keep it up.

9 MR. BECK: I think the marshals were
10 watching pretty closely and did not see a juror look
11 back at her.

12 MR. VILLA: Your Honor, I did see a juror
13 look back. But I also spoke to Mr. O'Connell, and
14 he's been very, very helpful in this regard. So we
15 appreciate that.

16 THE COURT: All right. All rise.

17 (The jury entered the courtroom.)

18 THE COURT: All right. Everyone be
19 seated.

20 Mr. Armenta, I'll remind you that you're
21 still under oath.

22 THE WITNESS: Okay, sir.

23 THE COURT: Mr. Castellano, if you wish to
24 continue your examination of Mr. Armenta, you may do
25 so at this time.

1 BY MR. CASTELLANO:

2 Q. Mr. Armenta, I'm going to show you
3 Government's Exhibit 61. Looking at Exhibit 61, Mr.
4 Armenta, does that look familiar to you?

5 A. Yes, it does.

6 Q. What is it or what does it look like?

7 A. It's the shank that I had that I used.

8 Q. And did you get a chance to look at the
9 shank that Jerry Montoya used?

10 A. It's very similar to that one.

11 Q. And so you described earlier some kind of
12 string and a handle?

13 A. Yes.

14 Q. Now, you mentioned before the break that
15 you see the correction officers and the nurse on the
16 outside of the door; is that correct?

17 A. Yes.

18 Q. What happens at the point that you finish
19 assaulting Mr. Molina? What happens to your shank?

20 A. I walk towards the back of the -- towards
21 the bottom tier to the stairs that goes to the
22 bottom tier. And Mr. Sanchez is right there in the
23 vicinity. And he tells me to just throw the shank
24 in the trash can.

25 Q. What did you think of that idea?

1 A. I really didn't. I just threw it in the
2 trash can.

3 Q. What was your understanding of what Mr.
4 Sanchez was supposed to do with that shank?

5 A. He was supposed to retrieve it from me and
6 get rid of it. Hide it, throw it away, just get rid
7 of it.

8 Q. And at this point do you pick up anything
9 from the floor?

10 A. Yes, I do. This is after I walk back to
11 Javier Molina. He was still standing up and I
12 walked back up to him, and I again attacked him. I
13 punched him in his face. And during the scuffle his
14 silver chain came off of his neck. It had a cross
15 on it. And it flew to the middle of the pod.

16 Q. Why did you hit Mr. Molina again?

17 A. Because he was still standing up. And I
18 wasn't thinking clearly. I just went up to him
19 again and hit him.

20 Q. What happened to that chain?

21 A. I ended up giving it to Jason Wright.

22 Q. Now, at this point did you have any blood
23 on you?

24 A. Yes, I did.

25 Q. Did you try to wash off that blood?

1 A. I went up to the top tier and tried to go
2 into the top tier shower and turn it on in an
3 attempt to wash it off. But Mario Rodriguez was in
4 there. And when I reached my hands in there, I
5 bumped into him. He said, "Wait, what are you
6 doing? What are you doing?"

7 I said, "Oh, shit. My bad."

8 I went back downstairs, went to the bottom
9 tier shower and turned the shower on in there, and
10 washed the blood off of my arms.

11 Q. Probably an obvious question, but why were
12 you washing blood off you at that point?

13 A. Because it was on me and I wanted it off
14 of me.

15 Q. What happens after you rinse off?

16 A. I start walking towards the stairs to go
17 up to the day room. And the COs are already coming
18 in at that point, and I'm walking up to my cell.
19 And I get my stuff that I had left right there on
20 the ledge for a shower. I started grabbing all that
21 stuff and going into my cell.

22 Q. And once you're in your cell, do all the
23 inmates get locked down?

24 A. Yes.

25 Q. What's going through your mind at the

1 point you're now sitting in your cell?

2 A. I'm tripping out. I'm scared. I'm
3 thinking about what I just did, what my hands just
4 did. Thinking about my children and the family that
5 I have. I have pictures of my daughters and
6 everybody up on my wall. So they're looking at me,
7 I'm looking at them, and I just kept asking myself,
8 "What did I do? What did I just do?"

9 Q. How did you feel?

10 A. I felt like a piece of shit. I felt like
11 scum.

12 Q. And what were you thinking about Javier
13 Molina at that time?

14 A. I thought, I just took somebody's daddy
15 away, son, brother, husband, away, knowing that I'm
16 the same person as him. I have brothers. I have a
17 mom. I have a wife and children. And knowing that
18 I just did that, that I just stabbed this man for an
19 organization that I thought loved me and respected
20 me, I felt like a piece of shit.

21 Q. How long do you stay in your cell before
22 someone comes to get you?

23 A. About 20, 30 minutes before they start
24 coming in, getting us out of our cells.

25 Q. So you have all that time to think about

1 what you just did?

2 A. Yeah.

3 Q. What happens when someone comes to get
4 you?

5 A. I cuff up. And that means, you know, they
6 say, "Cuff up," you put your arms behind your back,
7 and they escort you out of your cell into another
8 cell, in another unit. But there wasn't one open
9 for me, so they just left me out in the rec yard for
10 a few hours.

11 Q. What are you doing during that time?

12 A. Again, I'm left to my thoughts. Left to
13 my thoughts and my actions, and what I just left
14 behind and what I just lost.

15 Q. At some point in time are you able to get
16 to sleep that night?

17 A. Off and on. It wasn't a steady sleep. We
18 were basically naked. They took all our clothes
19 away from us. You would sit on the bed and nod out,
20 but you'd wake up again. I would wake up again.
21 And sleep didn't come.

22 Q. At some point in time are you pulled out
23 of your cell to be interviewed by State Police?

24 A. Yes.

25 Q. About what time was that?

1 A. I'm not sure exactly. I'd say 3:30, 4:00
2 in the morning. It was pretty early.

3 Q. And are you taken to be interviewed?

4 A. Am I taken to be interviewed?

5 Q. Yes. Does anybody try to interview you
6 that night?

7 A. Yes.

8 Q. What do you say during the interview?

9 A. I gave them nothing, really. I said that
10 I was standing by the door when he was getting beat
11 up. I tried to make it seem like I wasn't around or
12 that I had nothing to do with it, to try to, I don't
13 know, attempt to throw it off on someone else, I
14 guess.

15 Q. Did you meet someone named Officer
16 Palomares that night?

17 A. Yes, I did.

18 Q. And did you learn from him what happened
19 to Javier Molina?

20 A. Yes, I did.

21 Q. What did you learn?

22 A. He told me that Mr. Molina had passed away
23 to his wounds -- because of his wounds.

24 Q. All right. How did that make you feel?

25 A. It made me feel more like shit.

1 Q. At some point in time were you hoping that
2 he would pull through and make it?

3 A. Oh, yeah, definitely. I didn't want him
4 to die. Going back to when me and Mr. Montoya were
5 sitting in front of my door, you know, he was
6 worried and scared and, "What do we do," and you
7 know, we were just having a real quick conversation
8 about what to do and what we have to do. And I told
9 him, I said, "Look, dude, whatever you do, try not
10 to hit him in his chest. Try not to get that heart.
11 If you hit him anywhere else, he has a really good
12 chance of living, a really good chance. But if you
13 hit him in the chest, in the heart, it's over."

14 And he got hit in the heart.

15 Q. What happens to you in the weeks following
16 the Molina murder?

17 A. I'm written up. I'm locked in a cell.
18 All my property is taken away from me. No phone
19 calls, no mail. I get indicted. We don't get
20 showers. We don't get no rec time for a couple of
21 weeks, at least.

22 Q. Now, when you say you're written up, are
23 you written up by the prosecuting office or by the
24 Corrections Department?

25 A. By the Corrections Department.

1 Q. What are you written up for?

2 A. Written up for murder, possession of a
3 deadly weapon, conspiracy to commit murder, acts
4 constituting a felony and tampering with evidence.

5 Q. Okay. And were those all New Mexico
6 Corrections?

7 A. Policies and the procedures, yeah, the
8 disciplinary procedures, policies.

9 Q. So is that part of an administrative
10 process?

11 A. Yes.

12 Q. What happened to you just through the
13 administrative process?

14 A. I got found guilty. I went to a hearing.
15 I was found guilty of murder, tampering with
16 evidence, and possession of deadly weapon. They
17 took all the good time that I had received, which
18 was about 10 months, and they also gave me about
19 800-something days in disciplinary segregation, and
20 about two years and three months.

21 Q. What is disciplinary segregation?

22 A. Lockdown 24/7, no privileges, no
23 electronics, no visits, no phone, no commissary,
24 stuff like that.

25 Q. Now, as part of the administration, the

1 administrative process in the prison, are you
2 allowed to have a representative represent you for
3 those hearings?

4 A. At one point you were allowed to. But
5 when I had requested somebody to represent me, they
6 said it was not allowed.

7 Q. Who did you request?

8 A. I don't remember his name. They call him
9 Baby G.

10 Q. Would it help to refresh your recollection
11 to look at the documents? If you're able to look at
12 the document who you requested, would that refresh
13 your memory?

14 A. Yeah.

15 MR. CASTELLANO: May I approach the
16 witness, Your Honor?

17 THE COURT: You may.

18 BY MR. CASTELLANO:

19 Q. I'm going to show you a document from one
20 of your files. I'd ask you to review it quietly to
21 yourself, and I'll see if that helps refresh your
22 recollection.

23 Sir, after having reviewed that document,
24 does that refresh your recollection?

25 A. Yes, sir, it does.

1 Q. Who was the person you requested?

2 A. Jonathan Gomez.

3 Q. You said you knew him by another name?

4 A. Baby G.

5 Q. Who is Jonathan Gomez?

6 A. He is one of our brothers, SNM Gang
7 member.

8 Q. And do you recall why you requested him to
9 represent you?

10 A. He's savvy to the disciplinary policies
11 and procedures. He actually told me to request him
12 so he can help me in the process.

13 Q. And was Jonathan Gomez in your pod or one
14 of the other SNM pods?

15 A. He was in disciplinary segregation when
16 everything took place. When they relocated me, they
17 put me in his pod, which was a disciplinary
18 segregation pod.

19 Q. Now, in addition to the administrative
20 process, were you charged criminally?

21 A. Yes, I was.

22 Q. Who charged you?

23 A. Dona Ana County, State of New Mexico.

24 Q. Do you remember about when it was that you
25 were indicted by the DA's office?

1 A. March 20-something, I want to say.

2 Q. So the same month as the Molina murder?

3 A. Yeah.

4 Q. What were you charged with?

5 A. First-degree murder, conspiracy, tampering
6 with evidence.

7 Q. Who else was charged with you?

8 A. Jerry Montoya and Mario Rodriguez.

9 Q. At that point in time, do you remember
10 what charges Mario Rodriguez was facing?

11 A. Tampering with evidence, possession of a
12 deadly weapon, and I believe that's it.

13 Q. Where were you housed during the time you
14 were facing the state charges?

15 A. In 2-A, B pod.

16 Q. So is 2-A the same building or a building
17 next door to 1-A pod where you were before?

18 A. 2-A is a few hundred -- well about 100
19 yards away from 1-A.

20 Q. So it's still on the same grounds of the
21 Southern New Mexico Correctional Facility?

22 A. Yes.

23 Q. And about how long were you pending those
24 charges?

25 A. The murder charges?

1 Q. Yes.

2 A. Well, since March of 2014, all the way
3 till November of 2015. And then in December, we got
4 the indictment, the federal indictment on that.

5 Q. So in December of 2015, is that when your
6 state charges were dismissed and you were charged
7 federally?

8 A. Yes.

9 Q. And at some point in time as these charges
10 were pending, did anyone direct you to take the rap
11 or the fall for these charges?

12 A. Yes.

13 Q. Who was that?

14 A. That was Mario Rodriguez.

15 Q. And why was that?

16 A. Because he blames me for getting him
17 charged. He blames me that I'm the reason why he
18 got charged. Because of the whole -- when I went to
19 the shower, they think that I handed him one of the
20 shanks, because they found a shank in the shower.
21 And that's what they were led to believe with the
22 footage of the video and stuff.

23 Q. So is that the time like you just told the
24 jury a little bit ago, you went upstairs to rinse
25 off, and he was already in that shower?

1 A. Yes.

2 Q. What did you do in response to what Mario
3 Rodriguez told you?

4 A. I kind of rebelled at first and, you know,
5 he -- I knew I was already done. I knew that the
6 cameras weren't covered; they caught me on camera.
7 There's witnesses. I'm done. I'm finished.

8 So I decided that I was going to go along
9 with it and take the rap for it and I was going to
10 do my best to get him and Mr. Montoya off of the
11 charges that they were charged for.

12 Q. At some point in time, as a result of this
13 idea you had, did you write a letter to
14 Mr. Montoya's attorney?

15 MS. JACKS: Objection, misstates the
16 testimony. I think the testimony was the idea of
17 Mario Rodriguez.

18 THE COURT: I'll let you get there on
19 cross.

20 MR. CASTELLANO: We'll get there.

21 BY MR. CASTELLANO:

22 Q. So Mr. Rodriguez tells you to take the
23 rap?

24 A. Yes.

25 Q. Does he tell you to write a letter?

1 A. No.

2 Q. Does he tell you how you're supposed to
3 take the rap?

4 A. No. The only thing that we discussed was
5 the story that we were going to say, and we -- you
6 know, it didn't get fabricated overnight. It was a
7 process of a few months, going out to rec with each
8 other, talking about it, saying this, saying that,
9 and seeing what would work. We finally came to the
10 decision that this would work, what I said.

11 Q. Was that you and Mr. Rodriguez?

12 A. Me and Rodriguez and Montoya. Also Mr.
13 Martinez, too. He was in the vicinity of the murder
14 so he was there. He was a witness. And he was
15 going to be able to verify what we had fabricated to
16 say, yeah, that's what happened.

17 Q. At this point had Timothy Martinez been
18 charged with any crime?

19 A. Not at that time. Mr. Rodriguez had, but
20 not Mr. Martinez.

21 Q. And knowing that he was implicated, at
22 least as far as you knew, was he then willing to
23 help you out?

24 A. He was willing to help out Rodriguez and
25 Montoya, get the charges off of them. And yeah, he

1 was going with what I was saying. I mean, I
2 wouldn't say helping me out, because I'm going to be
3 taking the blame for it. But yes, he also wrote
4 something for me, which I never sent to my attorney,
5 because I was already feeling some kind of way about
6 it, like what am I doing, you know.

7 Q. So about what time period is this when you
8 guys are together and then at some point do you
9 separate?

10 A. Well, me, Mr. Martinez, and Montoya stayed
11 in Southern up until September 2014. And then we
12 were transported to Santa Fe to the north, North
13 facility.

14 Q. You say September of 2014?

15 A. Yes.

16 Q. What happens to Mr. Rodriguez?

17 A. He's already at the North. That's when
18 everything came to I'm going to take the blame.
19 It's your fault how I got charged. You're going to
20 take the blame. You should take the blame. Are you
21 going to take the blame? You know, he was trying to
22 make it sound like it was my idea, but I knew what
23 he wanted.

24 Q. What did you eventually do in response to
25 this idea?

1 A. I didn't really rebel at first. I did a
2 little bit, but I didn't get much by it. I said,
3 "Whatever. Okay. Let's do it. How do I do it?
4 What do I got to say?"

5 Q. At some point did you write a letter to
6 somebody?

7 A. Yes, I did.

8 Q. Who did you write a letter to?

9 A. I wrote a letter to Jerry Montoya to give
10 to his attorney stating that he was not guilty of
11 anything; that I was the one, I was the aggressor, I
12 was the one that stabbed him. Mr. Molina had said
13 something that got us into an argument. We got into
14 a fight, knives were pulled out, and the outcome was
15 that he was murdered.

16 MR. CASTELLANO: May I have a moment, Your
17 Honor?

18 THE COURT: You may.

19 BY MR. CASTELLANO:

20 Q. Mr. Armenta, in a moment I'm going to show
21 you 7586. It has your date of birth at the bottom.
22 I'm going to cover that with the exhibit sticker.

23 MR. CASTELLANO: Actually, may I approach
24 the witness, Your Honor?

25 THE COURT: You may.

1 BY MR. CASTELLANO:

2 Q. Mr. Armenta, I'm showing you what's going
3 to be marked as Government's Exhibit 756. Do you
4 recognize that document?

5 A. Yes, I do.

6 Q. At the bottom of the document is your date
7 of birth listed?

8 A. Yes.

9 Q. And is there also a corrections number?

10 A. Yes.

11 Q. If I cover that up with the exhibit
12 sticker, is there anything else that would be
13 covered?

14 A. No.

15 Q. Mr. Armenta, I've previously showed you
16 Government's Exhibit 756. Do you recognize that
17 document?

18 A. Yes, I do.

19 Q. What is it?

20 A. It is the handwritten letter that I wrote
21 to Mr. Montoya for his attorney stating that Mr.
22 Montoya was not guilty of anything; that he had
23 no -- he had no involvement with what happened.

24 MR. CASTELLANO: Your Honor, I move the
25 admission of Government's Exhibit 756.

1 THE COURT: Any objection?

2 MS. JACKS: No.

3 THE COURT: All right. Government's

4 Exhibit 756 will be admitted into evidence.

5 (Government Exhibit 756 admitted.)

6 BY MR. CASTELLANO:

7 Q. I'm showing you this document up on the
8 screen here. And with the exception of the name
9 "Armenta" written in the corner and the sticker I've
10 now put covering your date of birth and the
11 corrections number, does this look like a copy of
12 the letter that you wrote?

13 A. Yes, it is.

14 Q. And there appears to be a date at the top,
15 January 3, 2015. Do you remember if you authored
16 this letter on or about that date?

17 A. Yes, I did, I remember.

18 Q. Less than a year out from the Molina
19 murder; is that correct?

20 A. Yes.

21 Q. Let me just have you read that to
22 yourself, and I'll let the jury read it, as well.

23 At this point I'm going to ask you about a
24 certain part. You state in this letter that
25 somebody mentions your precious little daughter

1 being mentally handicapped. Is that true?

2 A. Yes, she is.

3 Q. And what does she suffer from?

4 A. It's a genetic disease. It's called 22Q,
5 DiGeorge Syndrome, a little similar to Down Syndrome
6 but like, way, way worse.

7 Q. Now, when you wrote this letter, then, is
8 that what you made as an excuse or the reason why
9 you killed Javier Molina, that he basically insulted
10 or threatened your daughter?

11 A. Well, it was something to that nature,
12 because Mr. Molina would talk a lot about retarded
13 children, Down Syndrome children in the pod, and
14 he'd scream it out loud, and this and that, and we
15 all came to that to say that because we knew that if
16 anybody else was going to be a witness, they could
17 testify to that; that, yeah, he was always saying
18 about Down Syndrome, and this and that, and
19 Creeper's daughter is Down Syndrome, she's mentally
20 handicapped. So that was a good tool to use.

21 Q. Now, even though it says at the bottom, "I
22 will swear to this written statement in open court
23 and under oath," was this statement true, this
24 letter?

25 A. At the time it was -- that's what we were

1 trying to do. I was trying to take the blame.

2 Q. I know you said at the time you were going
3 to say it was true, but is it actually true?

4 A. That I would come in court and swear under
5 oath, that I would tell the truth?

6 Q. No, the facts contained within the letter,
7 the story about --

8 A. Oh, no. My daughter is mentally
9 handicapped. He never insulted my daughter, never
10 insulted me formally to my face. Everything there
11 is fabricated. We all came up with that story.

12 Q. And in this case, why try to help out
13 Jerry Montoya?

14 A. He -- I don't know. I think I was doing
15 an honorable brotherly thing. And he had been
16 already in prison for 15, 16 years. I had a chance
17 to be out there for six and start a family and pay
18 bills and work and, you know, do that. It was a
19 very wonderful experience for me, and he told me
20 about his grandma, his kids that had missed him for
21 15 years, and you know, I kind of had a soft heart
22 towards him. So I told him I'll do the best I can
23 to help him. He deserves to be out there to make
24 things right with his daughter and try to see his
25 grandma before she passes away. Make some memories.

1 I wanted to be a good guy, let him get out.

2 Q. And if you were able to help Mr. Montoya
3 get his charges dismissed, would that get him home
4 sooner to his family?

5 A. Yeah, it would have.

6 Q. Now, at some point in time after writing
7 this letter, did you have a change of heart about
8 following through with this story?

9 A. Yes, I did.

10 Q. How did that happen?

11 A. Well, I've already been feeling some kind
12 of weird, like I'd already been talking to myself,
13 thinking to go myself, What am I doing? What's
14 going on here? You're willing to put your life on
15 the line for an organization and for people that
16 really didn't go out on a limb for you. Why are you
17 doing this?

18 And I was at war with myself with that,
19 because I had my pride, I had my honor. And this
20 was something that I thought was very, very
21 important to me, which, in fact, it wasn't. And
22 somebody that I am really close with, somebody that
23 really cares about me and I care about him as well,
24 Mr. Eric Duran, approached me one day through the
25 heater vents, and asked me, "What's more important

1 to you? What means more to you in your life?"

2 And I told him, "My daughters, getting
3 back home, getting back to my family. That's number
4 one. And that always will be number one."

5 Q. Where were you housed when you had this
6 conversation with Eric Duran?

7 A. I was at the North facility in Santa Fe.
8 We were in 3-A, unit 3-A, R pod.

9 Q. And do you remember about when this was?

10 A. February of 2015.

11 Q. Okay. So at this the point you have a
12 heart-to-heart about what's important to you?

13 A. Yes, we do.

14 Q. And did you know Mr. Duran by any other
15 names?

16 A. Yes.

17 Q. How did you know him?

18 A. Crazo.

19 Q. And after you had this conversation with
20 him, did you have a change of heart?

21 A. It took me a couple of weeks, but yes, I
22 did.

23 Q. Eventually, did you on your own or did
24 Mr. Duran point you in the right direction in terms
25 of who you could talk to?

1 A. Mr. Duran made a phone call and let the
2 right people know to pull me out of the pod and have
3 a little chat with them to see if I was serious
4 about what he had offered, and I did that.

5 Q. Who did you meet with?

6 A. I met with STIU Captain Sergio Sapien and
7 STIU Officer Chris Cupit and another lady that
8 didn't identify herself. She had an STIU jacket on.
9 I figured she was STIU, so I just left it at that.

10 Q. Do you know who she was?

11 A. No.

12 Q. And after meeting with them, did you then
13 meet with anybody from the district attorney's
14 office?

15 A. Not right away. I was waiting. I was
16 waiting for the time when they were going to come or
17 call me down or whatever. We had a scheduled court
18 date in June, so me and Mr. Rodriguez and Montoya
19 all got transported down to Southern where we were
20 housed again in 1-A where the murder took place.
21 Not in the pod, but in -- I was in yellow pod, and
22 Rodriguez and Montoya were in green pod. I didn't
23 speak with the DA or Mr. Palomares until August of
24 2015.

25 Q. And you said Palomares. Is that the same

1 New Mexico State officer who investigated the case?

2 A. Yes, he's the lead detective, I believe.

3 Q. What happened when you met with them?

4 A. I told him -- well, wait, wait, wait. I
5 talked to Mr. Montoya's lawyer, the district
6 attorney, and my attorney. That's when I first
7 disclosed all the information of how everything
8 happened and what went down. So it was actually Mr.
9 Palomares, I didn't talk to him until the second
10 interview, and that was with the U.S. Attorney and
11 the FBI and STIU members and the State Police.

12 Q. Do you remember when that was?

13 A. That was in September.

14 Q. Of what?

15 A. 2015. The first interview happened in
16 August of 2015.

17 Q. September of 2015. And are you aware that
18 this case was charged federally in December of 2015?

19 A. Yes.

20 Q. Okay. So you met with members of the
21 federal prosecution team even before this case was
22 indicted?

23 A. Yes.

24 Q. And at that point did you disclose what
25 really happened?

1 A. Yes.

2 Q. At some point in time did you try sending
3 a letter to Mr. Montoya telling him that you were
4 going to tell the truth?

5 A. Yes. I wrote that letter just after the
6 interview with the district attorney and the
7 attorneys.

8 MR. CASTELLANO: May I approach the
9 witness, Your Honor?

10 THE COURT: You may.

11 BY MR. CASTELLANO:

12 Q. I'm not going to introduce this yet. I'm
13 just going to show it to you. This is Government's
14 Exhibit 75 for identification. I'll have you look
15 that over and see if you recognize it.

16 A. I do recognize it. It's my handwriting.

17 Q. I'll show you the second page, as well.

18 A. Yes.

19 Q. Mr. Armenta, having looked at this letter,
20 do you recognize it?

21 A. Yes, I do.

22 Q. Did you author this letter?

23 A. Yes, I did.

24 Q. For what purpose?

25 A. To try to help Jerry Montoya again. To

1 get him to come clean about what happened so that he
2 can help himself, instead of me helping him to get
3 out of it.

4 MR. CASTELLANO: Your Honor, at this time,
5 I move the admission of Government's Exhibit 757.

6 THE COURT: Any objection?

7 MS. JACKS: No.

8 MS. DUNCAN: No, Your Honor.

9 THE COURT: Not hearing any objection,
10 Government's Exhibit 757 will be admitted into
11 evidence.

12 (Government Exhibit 757 admitted.)

13 BY MR. CASTELLANO:

14 Q. Mr. Armenta, I'm going to leave that up
15 there for a second so the members of the jury can
16 see it as well.

17 While everybody is reading that, if you
18 recall, approximately when did you author this
19 letter?

20 A. September, August 2015. It was right at
21 the end of August or the beginning of September.

22 Q. And why do you think it was during that
23 time period?

24 A. Because I was in Dona Ana County jail to
25 discuss with Mr. Montoya's attorney. The reason I

1 was down there was to give him the story that we had
2 fabricated to try and clear Mr. Montoya's name. And
3 I had spoke with my attorney before we were talking
4 to the district attorney and Mr. Montoya's attorney,
5 and I discussed with him what I wanted to do. I
6 actually sent a letter to my attorney a week before
7 that interview and let him know what I wanted to do.

8 Q. At the top it says, "By the time you
9 receive this letter, you will already know what I
10 did." And at that point what you have done?

11 A. I would already have disclosed information
12 on the murder, what happened, what he did, what
13 everybody did, their part.

14 Q. Is that the part where you say, "I had to
15 tell the truth about the way it all went down"?

16 A. Yes.

17 Q. At the bottom, you make a comment at the
18 very bottom, "And if it weren't for the amore of
19 this onda, I would have had some time with her."

20 What are you saying, if it weren't for the
21 love of this onda, you'd have time with her?

22 A. With my daughter.

23 Q. Were you being sarcastic there?

24 A. What happened was, I found out later that
25 I had misplaced a couple of words on there because

1 my daughter had had some complications. She had a
2 surgery around the time I was in Dona Ana County,
3 and she almost died. They took her left lung out.
4 The one that's mentally handicapped, they took her
5 left lung out, and she almost died on us. And she
6 was in a coma for, like, a long time. They were
7 expecting her to die, pass away. She hadn't died.
8 What it says right there, that she did, but what I
9 meant to say was that Cheryl Ann almost passed away.
10 Knowing that she was in a coma and she might die --
11 that's what I meant by the amore of this onda.

12 Q. What does "amore" mean?

13 A. Love.

14 Q. What is the "onda"?

15 A. SNM, like a gang.

16 Q. Turning to the second page of that
17 exhibit, you're asking him to think about "what's
18 more important to you, dog. I love you, man." What
19 are you talking about there?

20 A. I'm talking about his daughter, his son,
21 his grandma, his mom.

22 Q. And at the very bottom, what's the
23 question you're asking?

24 A. "Am I gonna go down for some bullshit."

25 Q. And what is that?

1 A. Am I going to go down for these people's
2 bullshit for what they wanted us to do, they made us
3 do?

4 Q. Now, were you ever made aware of whether
5 or not this letter reached Mr. Montoya?

6 A. No, I wasn't aware until STIU Chris Cupit
7 contacted me on the telephone, and he asked me if my
8 daughter passed away. And I was like, "What?"

9 "Because they got this letter and this and
10 that, and it says she died."

11 I said, "No, she almost passed away."

12 That's when I knew he didn't receive it,
13 because he told me, "I can't give him this. We
14 can't let him have it."

15 Q. In other words, was it intercepted before
16 it reached him?

17 A. Yes.

18 Q. By corrections officials?

19 A. Yes.

20 Q. I want to discuss with you a certain point
21 in time when you were housed with Mr. Herrera in
22 approximately June of 2015, if you were housed with
23 him or near him?

24 A. I was right next door to him.

25 Q. Did you have a discussion with him about

1 the order on Javier Molina?

2 A. Yes, I did.

3 Q. What did he tell you about his
4 involvement?

5 A. He had the say-so, him and Dan. They all
6 confirmed that the paperwork was legit and that it
7 was okay to go ahead and move forward with Javier's
8 murder. And I asked him, "Whose decision was it to
9 send me and Plazz?"

10 And he told me it was his.

11 Q. Why?

12 A. Because we hadn't earned our bones yet.
13 Send someone who hasn't earned their bones yet,
14 Creeper and Plazz.

15 MS. JACKS: Your Honor, we'd request a
16 limiting instruction for this testimony.

17 THE COURT: This will be used just against
18 Mr. Sanchez; no one else.

19 MS. JACKS: Excuse me, Your Honor. Those
20 were statements of Mr. Herrera, so it's not to be
21 used against Sanchez.

22 THE COURT: I understand. I understand.
23 It's just statements of Mr. Herrera, and you can
24 only consider them in conjunction with considering
25 the charges against Mr. Herrera, and not any of the

1 other defendants.

2 BY MR. CASTELLANO:

3 Q. Having had the discussion with Mr. Herrera
4 at that time, did you understand why or how it was
5 important that he was involved with the order?

6 A. Say that again, please?

7 Q. Why was it important that he was part of
8 order to hit Molina?

9 A. Because he didn't know there's higher-ups
10 that say, "Here's paperwork, kill this person."

11 MR. MAYNARD: Objection, speculation, Your
12 Honor.

13 THE COURT: Well, lay a foundation.

14 BY MR. CASTELLANO:

15 Q. At this point when you were having a
16 discussion with Mr. Herrera, did you understand his
17 position in the SNM?

18 A. Yes.

19 Q. What kind of position?

20 A. He had influence. He had clout. He could
21 give orders. I mean, not on his own. He can't just
22 say, "Hey, by myself, I want to go kill that
23 person."

24 He would need paperwork to back it up. He
25 would need the say-so of other SNM leaders or

1 spokespersons to confirm that it's legit.

2 Q. When you having that discussion with him,
3 were you aware whether or not he had any leadership
4 role in the SNM?

5 A. Not major leadership, but he had the
6 llaves, the keys. He could make decisions like
7 that.

8 Q. After having sat down with the Government
9 before the case was indicted, you later agreed to
10 plead guilty to your federal charges?

11 A. Yes.

12 Q. And if you recall, what did you plead
13 guilty to?

14 A. Murder. On the federal side or the state
15 side?

16 Q. On the federal side.

17 A. Yes, first-degree murder.

18 Q. Did you enter into a plea agreement with
19 the Government as part of that deal?

20 A. Say that again.

21 Q. Did you enter into a plea agreement with
22 the Government.

23 A. Yes, I did.

24 MR. CASTELLANO: At this time, Your Honor,
25 I'll move the admission of 678 and 679. They should

1 be the plea agreement and the addendum to the plea
2 agreement.

3 THE COURT: Any objection from the
4 defendants?

5 Not hearing any objection, Government's
6 Exhibits 678 and 679 will be admitted into evidence.

7 (Government Exhibits 678 and 679
8 admitted.)

9 BY MR. CASTELLANO:

10 Q. Mr. Armenta, let me show you Government's
11 Exhibit 678. On this document can you tell when you
12 pled guilty?

13 A. December of 2016.

14 Q. Let me turn your attention to the second
15 page of that plea agreement. When you pled guilty,
16 did you understand that the conspiracy charges count
17 6 -- I'm underlining it here for you, conspiracy to
18 murder -- did you understand that the maximum
19 penalty for that charge was 10 years?

20 A. Yes.

21 Q. And you say -- did you plead guilty to
22 conspiring to commit this crime?

23 A. Yes, I believe I did, yeah.

24 Q. And as part of that conspiracy, who else
25 was involved with you with that murder?

1 A. That would be Jerry Montoya, Mario
2 Rodriguez, Daniel Sanchez. I believe that's it. I
3 think Ray Baca, I think, might have been on that.

4 Q. You mentioned another name a few minutes
5 ago, someone else who ordered the hit. Do you
6 remember who that was?

7 A. Who ordered the --

8 MS. DUNCAN: Your Honor, I object, calling
9 for hearsay.

10 THE COURT: Well, lay some foundation.

11 MR. CASTELLANO: I was actually just
12 referring to his earlier testimony about a
13 conversation he had with Mr. Herrera, Your Honor.

14 A. Mr. Herrera. Okay. Had it -- I'm sorry.

15 THE COURT: Well, if it's coming in around
16 Mr. Herrera, I'll allow it, but a continuing
17 limiting instruction applies. This can be used only
18 against Mr. Herrera.

19 BY MR. CASTELLANO:

20 Q. So as part of the conspiracy, does that
21 include Mr. Herrera who told you that he also
22 ordered that the hit happen?

23 A. Yeah, he's the one that ordered for me and
24 Plazi to do it, to send us to do the murder.

25 Q. Now, as part of the murder, Count 7, did

1 you understand that you were pleading to a term of
2 life in prison?

3 A. Yes.

4 Q. Now, if we can turn to the next page,
5 please, and the next page. Now, as part of your
6 plea agreement, were you required to admit to
7 certain facts that showed the judge who took your
8 guilty plea that you were guilty?

9 A. Yes.

10 Q. For purposes here, those facts aren't
11 here, because the jury needs to hear from you and
12 not from this document. So is this why you're
13 testifying today?

14 A. Yes, sir.

15 Q. And in addition, did you also admit to
16 certain facts in your plea agreement?

17 A. Yes.

18 Q. Let's turn to the next page. And the
19 next. Let's turn to the next page. All right.
20 Also as part of this plea agreement on page 7, did
21 you understand that you're waiving your appellate
22 rights when you pled guilty?

23 A. Yes.

24 Q. And did you understand, then, that once
25 you got sentenced, unless your attorney was

1 ineffective, that that was your sentence?

2 A. Yes.

3 Q. Without any right to appeal?

4 A. Yes.

5 Q. Let's turn to the next page, please, and
6 the next. At the bottom of the document, then, do
7 we also see your signature at the bottom of the
8 page?

9 A. Yes.

10 Q. Let me turn your attention to the next
11 document, document 679. Do you remember what this
12 document was? I'll give you a chance to read it.

13 As part of your plea agreement, did you
14 then agree to cooperate with the United States to
15 give truthful and complete information?

16 A. Yes, I did.

17 Q. Did you understand that you were not
18 allowed to falsely implicate other people in the
19 commission of the crime?

20 A. Yes.

21 Q. Or minimize anyone's involvement?

22 A. Yes.

23 Q. Did you also agree in paragraph 3 to
24 testify truthfully in any state proceedings, federal
25 proceedings, or even grand jury proceedings?

1 A. Yes.

2 Q. Turning to the next page of that document,
3 did you understand from paragraph 6 that if you
4 cooperate with the Government, that the Government
5 may move to ask the Court to reduce your sentence?

6 A. Yes.

7 Q. Did you also understand that if the
8 Government moves for what's called a downward
9 departure to reduce your sentence, that ultimately
10 the sentence is within this judge's discretion?

11 A. Yes.

12 Q. So ultimately who is going to decide your
13 sentence?

14 A. Your Honor Browning.

15 Q. When you were pending in this case, did
16 you receive what's called a tablet that had the
17 discovery in this case?

18 A. Yes, I did.

19 Q. What types of information generally were
20 on that tablet?

21 A. A lot of information from a lot of other
22 cases of my own, stuff I don't know about, stuff I
23 didn't know happened.

24 Q. In addition to the discovery which talked
25 about the Molina murder, then was there information

1 about other murders in this case and other parts of
2 the investigation?

3 A. Yes.

4 Q. And would you use that tablet to review
5 discovery from time to time?

6 A. Yes.

7 Q. How much did you use it?

8 A. Almost every day I was reading it.

9 Q. And eventually what happened to that
10 tablet?

11 A. It was taken, confiscated.

12 Q. All right. Why?

13 A. Because it was compromised.

14 Q. How did that happen?

15 A. One of the cooperators found a way to
16 reset it, and we reset our tablets, playing games
17 with them, taking pictures, and stuff like that.

18 Q. In which facility were you at that time?

19 A. This was first at the PNM North facility
20 in Santa Fe.

21 Q. While this case has been pending, have you
22 changed jail or prison facilities?

23 A. Yes.

24 Q. Have you been moved around the state?

25 A. A number of times, yes.

1 Q. Was the tablet reset at PNM North or
2 somewhere else?

3 A. It was reset at PNM North.

4 Q. What were you able to do with it once it
5 was reset?

6 A. Go into all the little things that you
7 could do with a computer, play the games, take
8 pictures, videos, all the Windows stuff, like write,
9 type, that type of stuff.

10 Q. And once you reset it, did the discovery
11 disappear from the tablet?

12 A. Yes, it did.

13 Q. Were you able to review the discovery
14 anymore at that point?

15 A. No.

16 Q. About when was it that the tablet was
17 compromised?

18 A. January 2017.

19 Q. So have you been able in the last year to
20 review the discovery on that tablet?

21 A. Just from what I have from the state case.
22 Only on my case.

23 Q. Now, did you understand that once it was
24 reset, that you were misusing that tablet?

25 A. Yes.

1 Q. What types of things? You told us some,
2 but what other things were you doing with that?

3 A. Well, when we got to -- we were
4 transferred over to Sandoval County jail. About a
5 couple weeks after we got there, we received our
6 tablets, and the Wi-Fi came on.

7 MS. FOX-YOUNG: Your Honor, can we take a
8 brief break for Mr. Perez?

9 THE COURT: All right. We'll be in recess
10 for about 15 minutes. All rise.

11 (The jury left the courtroom.)

12 THE COURT: Ms. Bhalla, I'm probably
13 repeating myself, but I'm not interested in just
14 additional statements. They've got to be prior
15 inconsistent statements. Okay? So you've got to
16 link it up with the statement that you're saying
17 it's inconsistent with, okay? Do you understand?
18 It can't just be additional statements. It's got be
19 inconsistent statements.

20 MS. BHALLA: Okay. Well, and I think, to
21 be fair, Your Honor, part of it depends on what they
22 say when they take the stand.

23 THE COURT: Sure. Sure. When you and I
24 are talking?

25 MS. BHALLA: Yes.

1 THE COURT: Remember, I'm probably going
2 to exclude just additional statements.

3 MS. BHALLA: Oh, I understand.

4 THE COURT: So you've got to link it up
5 and tell me where it's inconsistent.

6 MS. BHALLA: I understand.

7 THE COURT: If that's where you're going.

8 MR. VILLA: I'm sorry to interrupt this,
9 Your Honor, but I believe Mr. Perez suffered a minor
10 seizure. Ms. Fox-Young observed his eyes rolling
11 around. He was nonresponsive to me. This is
12 consistent -- what we've been told by our medical
13 doctor through his records. He suffers from minor
14 seizures that then it takes an hour or two for him
15 to recover from those. He's very disoriented and
16 dazed right now, and I think we need to give him
17 some time. I think -- I'm not sure he's oriented
18 right now.

19 THE COURT: All right. Well, we'll take a
20 break for a while.

21 We did receive a note from juror number
22 17, Anastasia Wolf. She noticed on the plea
23 agreement it was signed by Damon Martinez. And she
24 says, "I know him." So I'll have this marked as an
25 exhibit. It's not raising too much issue with me.

1 But if it does with anybody else, let me know.

2 MR. CASTELLANO: It does, Your Honor. He
3 didn't sign it. I'll put it up there a little
4 closer. He's the U.S. Attorney on all the documents
5 when he was the U.S. attorney, but it's the standard
6 signature line.

7 THE COURT: Okay. If anybody has any
8 concern, let me know. Otherwise, we'll just keep
9 moving.

10 MR. VILLA: And Your Honor, I think the
11 marshals agree that he's very disoriented right now.
12 I think someone needs to check on him, even if it's
13 an EMT.

14 THE COURT: All right. Let the marshals
15 take a look at him, make a call on that.

16 All right. We'll be in recess for about
17 15 minutes, then we will see where we are.

18 (The Court stood in recess.)

19 THE COURT: All right. Let's go on the
20 record. Deputy Mickendrow, if you want to give us a
21 report of what occurred maybe in the courtroom, and
22 then what happened afterwards.

23 MR. MICKENDROW: Good afternoon. Deputy
24 Mickendrow. So we brought Mr. Perez to the Memorial
25 Medical Center via ambulance. In the ambulance ride

1 he was provided oxygen. His O2 or oxygen levels
2 were anywhere between 92 and 97; 97 being a good
3 number, 92 not being so good.

4 Once we got to the ER, the doctor reviewed
5 Mr. Perez and stated that one of the possible side
6 effects of the Theraflu which he was prescribed last
7 week may contribute to some of the symptoms that are
8 occurring right now. This deals with a chemical
9 called ketamine. I'm not sure what that is. They
10 did draw blood. The doctor informed me that if it
11 was ketamine-induced, that there should also be
12 other symptoms from the blood draw. However, the
13 blood draw came back clean.

14 He was provided Ibuprofen at the medical
15 facility with water. Nothing else was administered
16 to him. The blood results were sent back over to
17 Dona Ana County Detention Center. The ketamine
18 levels, however, can't be evaluated for a number of
19 days. It's about two days, I believe. So once that
20 happens, I'll be able to call Dona Ana, probably on
21 Tuesday, to find out if the ketamine levels had
22 spiked or not.

23 In addition, what we did find out from the
24 nurse was that it's not -- what she informed me is
25 it's not possible to identify whether it was a

1 seizure or not through blood draw. So that was
2 erroneous information from the EMT.

3 We have received -- my supervisor just
4 told me that he just got off the phone with Jason
5 Duran, who is the head of the medical over at Dona
6 Ana County Detention Center, and Mr. Duran stated
7 that Mr. Perez refused his insulin yesterday. And
8 over the past three days, his orders from commissary
9 have been nothing but high-sugar items. Mr. Duran
10 did not say one way or the other, but he did make a
11 statement that it's possible that the high sugar is
12 leading to some of these symptoms also.

13 THE COURT: Did I understand that when the
14 EMT looked at him, they did not think he had a
15 seizure?

16 MR. MICKENDROW: That is correct. On both
17 days, the EMTs -- on Tuesday, the EMT didn't believe
18 he had a seizure. And today the EMT did not believe
19 he had a seizure.

20 THE COURT: And when he left here
21 yesterday, did he eat last night?

22 MR. MICKENDROW: From speaking with Mr.
23 Perez, he had a Pop-Tart last night, and he refused
24 his food this morning.

25 THE COURT: So he didn't have any

1 breakfast when he got here this morning?

2 MR. MICKENDROW: He had no breakfast this
3 morning. And I don't know if the deputies stopped
4 for lunch with him. But I don't believe he's had
5 anything to eat at all up to this point.

6 THE COURT: Do you recall anything else
7 the doctors, the EMT, or the nurses said?

8 MR. MICKENDROW: We asked the medical
9 facility to do a full workup. The only thing they
10 indicated to me was that the blood would be the
11 greatest indicator to find out if there is anything
12 wrong with him. And since it came back clean, he
13 was released immediately. When I was texting, the
14 group text that I had sent out, which included the
15 Court, JoAnn Standridge, the AUSA, Ryan Villa,
16 defense, and my supervisor, I was under the
17 assumption the blood work would come back with
18 indicators, therefore requiring greater tests. But
19 when it came back clean, they released him
20 immediately.

21 THE COURT: Because if I understood the
22 developments today, they were going to do a full
23 workup or full treatment. As soon as they got the
24 clean blood test, they decided that was unnecessary?

25 MR. MICKENDROW: That is correct. In

1 fact, I requested a full workup on behalf of the
2 Marshal Service and on behalf of Mr. Perez. When I
3 went in there, I spoke with both the nurse and the
4 doctor, letting them know that we would really like
5 to find out what's going on here, what's causing
6 these incidents. And again, I can't speak to what
7 their thoughts are. But all I know is, based on the
8 blood work, they released him immediately.

9 THE COURT: And were they planning to do
10 chest work, and then decided because the blood work
11 was clear to not do it?

12 MR. MICKENDROW: When I heard the doctors
13 speaking to the nurses, I did hear him mention a
14 number of other tests to be done based on the blood
15 work. And since those tests were not done, I can
16 only assume that the doctor was assuming the blood
17 work would come back. But these are all assumptions
18 on my part.

19 THE COURT: Did they give any indication
20 as to whether they believe that Mr. Perez is sick,
21 really sick, or feigning or faking these?

22 MR. MICKENDROW: I did not receive a
23 verbal response one way or the other indicating
24 that. And I'd prefer not going into impressions on
25 that, simply because I may be wrong.

1 THE COURT: All right. If they didn't say
2 it, then we don't need to go there.

3 All right. Anything else, Deputy?

4 MR. MICKENDROW: No. I will attempt to
5 see if maybe the doctor or the nurse could
6 correspond with the Court. Would phone work for the
7 Court?

8 THE COURT: Well, whatever. If they have
9 something we can put on the record, that would be
10 great. But if they can shoot an email that I can
11 share with everybody, or if they want to call in,
12 we'll take a break and put them on the phone.

13 MR. MICKENDROW: And particularly, my
14 understanding is you're wanting to know if these
15 symptoms are real or maybe not so real?

16 THE COURT: I just wondered if they
17 commented on that in any way.

18 MR. MICKENDROW: All right.

19 THE COURT: Thank you, Deputy. I
20 appreciate it.

21 MS. FOX-YOUNG: Your Honor, may I make a
22 record?

23 THE COURT: You may. You did not go to
24 the hospital and speak to the doctors?

25 MS. FOX-YOUNG: I was not permitted to,

1 Your Honor.

2 THE COURT: You didn't go over and speak
3 to the nurses?

4 MS. FOX-YOUNG: I spoke to the EMTs.

5 THE COURT: Okay. But not to the nurses?

6 MS. FOX-YOUNG: I stayed here in the
7 court, Your Honor. I didn't go to the hospital. I
8 couldn't go with the transport. And here's what I
9 observed before I asked the Court if it could take a
10 break. I observed Mr. Perez' eyes -- it's a little
11 bit difficult to describe, but going in a rolling
12 fashion, a circular fashion. The Court seems to be
13 implying that perhaps Mr. Perez is faking these
14 incidents.

15 THE COURT: I just asked if the doctors
16 and nurses had commented in any way on that.

17 MS. FOX-YOUNG: Your Honor, I don't think
18 it's physically possible for a person to fake what I
19 saw. This is the second time this week that I've
20 seen Mr. Perez have a similar episode.

21 As the Court knows, Mr. Villa and I have
22 spent many hours with Mr. Perez; Mr. Villa beginning
23 in the spring of 2016. We know him very well.
24 We've spent many hours in court with him. Never
25 seen him have this kind of medical episode. He has

1 an underlying seizure disorder, and as we discussed
2 with the Court, we've been trying to get him to see
3 a neurologist, because this has been ongoing and
4 worsening.

5 THE COURT: It's very difficult in New
6 Mexico to see a neurologist. Many people in
7 Albuquerque have to wait months to get appointments.
8 It's just a very difficult situation to get a
9 neurologist in New Mexico.

10 MS. FOX-YOUNG: And so he hasn't seen one.

11 In any event, I witnessed him have this
12 episode. Mr. Villa and I -- particularly Mr. Villa,
13 because he's right next to him, tried to communicate
14 with him. And he just seemed to be out for a short
15 period of time. He had been relatively
16 uncommunicative, and then he was just out. Mr.
17 Villa was calling his name, talking to him. And he
18 wasn't out for a long time, but once we were able to
19 start talking to him, he did seem disoriented and
20 quite confused. In fact, one of the marshals
21 remarked to me that he was clearly disoriented. And
22 this was once the break began.

23 The EMTs came in. And one of the EMTs,
24 who sort of summarized the situation before Mr.
25 Perez was transported, said, "We can't tell whether

1 or not he's had a seizure. We're just eyeballing
2 him."

3 They looked at him for 20 seconds. They
4 said, "We don't know what happened. But, you know,
5 he ought to go to the hospital, if that's what you
6 want to do."

7 And Deputy Mickendrow said, "We do."

8 They didn't make any diagnosis or further
9 evaluation.

10 As the Court knows, Mr. Perez has a severe
11 seizure disorder -- we'll incorporate the medical
12 testimony from the suppression hearing -- he has a
13 bad lung infection. He's just now begun the
14 antibiotics that were ordered on Monday, when he
15 went to the ER. He has diabetes. His seizures
16 manifest as severe tonic-clonic seizures, like the
17 eight-day continuous seizure he had in 2013, and
18 also as subtle seizures. And there was expert
19 testimony on that at the suppression hearing. We
20 know that he continues to have them regularly.

21 And I'll just submit to the Court, Mr.
22 Perez has not been able to assist us. And this
23 isn't always true. He has periods of lucidity over
24 the last few days. And at times we are able to pass
25 notes with him and communicate with him, and he does

1 seem to be absorbing what's going on in the
2 proceedings. But he also has significant periods
3 where he is not. And we can tell he is not because
4 he's not communicating, or not communicating in his
5 normal, quick way with us. We -- you know, we just
6 are not able to have meaningful discussions and come
7 to resolutions with regard to some of the testimony
8 and trial strategy.

9 I'll also note that Memorial Hospital is
10 the same hospital that Mr. Perez went to in 2012,
11 when he was complaining of very severe abdominal
12 issues; in fact, he was throwing up almost nonstop,
13 including fecal matter, and had what turned out to
14 be a bowel obstruction. And Memorial Hospital sent
15 him back to the prison and missed the bowel
16 obstruction, and left him. He was covered in vomit
17 when he finally ended up at UNMH.

18 And this is important, Your Honor, because
19 he ended up having an eight-day continuous seizure
20 and he almost died. So we raise this with the
21 Court, one, because Mr. Perez has a due process
22 right to be fully engaged in his trial. And I don't
23 think that he is competent for long periods of time.
24 But also because we're very worried about his
25 health. He has a lot of underlying conditions, and

1 he's very susceptible to getting worse. And we want
2 the Court to know that we're concerned about him.

3 I appreciate the Court allowing him to go
4 to the hospital. But it is a pretty serious
5 situation. And on that basis, we would again ask
6 that Mr. Perez be mistried, and he be severed from
7 this case.

8 THE COURT: All right. Those requests are
9 denied. All rise.

10 MS. FOX-YOUNG: While we're waiting for
11 the jury, I just want to let the Court know that Mr.
12 Perez says he did not refuse any insulin, for the
13 record.

14 THE DEFENDANT: Why would I?

15 MR. VILLA: Rudy.

16 (The jury entered the courtroom.)

17 THE COURT: Mr. Armenta, I'll remind you
18 that you're still under oath.

19 THE WITNESS: Yes.

20 THE COURT: And Mr. Castellano, if you
21 wish to continue your direct examination, you may do
22 so at this time.

23 MR. CASTELLANO: Thank you, Your Honor.

24 THE COURT: Mr. Castellano.

25

1 BY MR. CASTELLANO:

2 Q. Mr. Armenta, before the break I was asking
3 you about your tablet, and you had mentioned that
4 you had somehow tampered with it or reset it; is
5 that correct?

6 A. Yes, sir.

7 Q. And at that point, then, did all the
8 discovery that was on the tablet disappear?

9 A. Yes.

10 Q. Once that happened and it was discovered
11 that the tablet was tampered with, did you get it
12 back?

13 A. We've had it -- we had it for -- up until
14 April of 2017 and, then it was taken and we haven't
15 got it back since.

16 Q. So April 2017 was the last time you had
17 access to the tablet?

18 A. Yes, sir.

19 Q. You also mentioned, I think, when you went
20 to Sandoval County, you learned that you had
21 internet access; is that correct?

22 A. Yes.

23 Q. And once you had internet access to the
24 tablet, what types of things were you doing with it?

25 A. We were doing a lot of different things,

1 looking up on Facebook, music, music videos,
2 pornography. Just whatever that was interesting or
3 whatever. Google.

4 Q. Did you have authority or permission to
5 use the tablet in that way?

6 A. No, we did not. I did not.

7 Q. Also while at Sandoval County Detention
8 Center, can you tell the members of the jury whether
9 you used drugs over there?

10 A. Yes, I did.

11 Q. And did you also attempt to gain access to
12 drugs through any of the staff over there?

13 A. No.

14 MR. CASTELLANO: May I approach, Your
15 Honor?

16 THE COURT: You may.

17 BY MR. CASTELLANO:

18 Q. Mr. Armenta, let me show you what's been
19 marked for identification as Government's Exhibit
20 758.

21 A. Okay.

22 Q. Do you remember that document?

23 A. Yes.

24 Q. What is the document I showed you?

25 A. It is a kite, a handwritten note, what we

1 call them kites, notes to the female staff, inmates
2 in the kitchen, that worked in the kitchen. And it
3 reads -- well, I wrote and asked them if they can
4 hook us up, hook me up with some Suboxone.

5 Q. And did you author this note or this kite?

6 A. Yes, I did.

7 MR. CASTELLANO: Your Honor, at this time
8 I move the admission of Government's Exhibit 758.

9 THE COURT: Any objection?

10 MS. DUNCAN: No, Your Honor.

11 THE COURT: Not hearing any objection,
12 Government's Exhibit 758 will be admitted into
13 evidence.

14 (Government Exhibit 758 admitted.)

15 MR. CASTELLANO: With the Court's
16 permission, I'll publish this to the jury.

17 THE COURT: You may.

18 BY MR. CASTELLANO:

19 Q. Mr. Armenta, let me ask you this. In this
20 document do you use the word "Suboxone"?

21 A. Yes. Not the word "Suboxone," but "sub,"
22 short for Suboxone.

23 Q. So I'm going to highlight a certain
24 section. It says, "You want to cop some subs?"

25 A. Yes.

1 Q. Why do you use the word "subs," as opposed
2 to just saying: "Can you get us Suboxone?"

3 A. That's what I talk -- most of us, that's
4 what we talk. Instead of saying the whole word,
5 we'll say that slang.

6 Q. And over here you use the term that has
7 the word "stripper" in it?

8 A. Right.

9 Q. How do you normally get Suboxone?

10 A. I normally get it through other inmates
11 that are at the facility.

12 Q. Can you describe what Suboxone looks like
13 for the jury?

14 A. Well, it comes in a couple of different
15 forms. One is a pill form, and then the other form
16 is most common in prison. It's like a strip, looks
17 like, you know, the Listerine breath mint strips,
18 looks like those, about the same size and
19 everything. Put it on your tongue and it dissolves
20 and you get a high off of it.

21 Q. So when you use the term "subs" and the
22 term "stripper," are you talking about getting
23 Suboxone strips?

24 A. Suboxone strips, yes.

25 Q. Was this attempt successful?

1 A. No.

2 Q. And did you try to send this to the female
3 inmates hoping that they could get you some
4 Suboxone?

5 A. Yes.

6 Q. Now, even though this attempt didn't work,
7 were you using drugs in that facility?

8 A. Yes.

9 Q. What drugs did you use over there?

10 A. Suboxone.

11 Q. And did you know that you weren't supposed
12 to be using Suboxone in the facility?

13 A. Yeah.

14 Q. I asked you this earlier. From time to
15 time you were in a street gang until even during
16 this case, have you ever stopped using drugs?

17 A. Yeah, I told you that I stopped using
18 crack around 2008 when my daughter was born. And
19 I've done heroin and a few other things after that.

20 Q. But have there been times, for example,
21 even while you were in jail in this case, did you
22 continue to use drugs?

23 A. Yeah.

24 Q. Now, I also want to talk to you about some
25 of the benefits you received in this case. At one

1 point were you allowed contact visits?

2 A. Yes.

3 Q. Where was that?

4 A. They first started in Grants, New Mexico,
5 at the prison there. And then they continued in
6 Santa Fe at the North facility.

7 Q. And what is a contact visit normally?
8 What goes on in that type of visit?

9 A. Oh, we get to hug and kiss our families,
10 talk to them. If there's kids, we can hold them.
11 That's it. I mean, they're just right there. There
12 is no glass in between us, you know. It's contact.

13 Q. When you say there is no glass in between
14 you, does that mean you're able to be in the same
15 room with them?

16 A. Yes.

17 Q. Can you describe the room?

18 A. It's a little -- about an 8-by-8 room that
19 was used normally for attorney visits. And we used
20 that room for about eight months. There is a table
21 in there, two chairs.

22 Q. About how long would you normally be
23 allowed a contact visit?

24 A. I believe it's eight hours a week, eight
25 hours a week. I mean, none of us never went that

1 long, but that's the max that you're allowed.

2 Q. At some point in time were you caught
3 abusing that privilege?

4 A. Yes, I was.

5 Q. How did you abuse that privilege?

6 A. I was doing a little too much touching and
7 doing more than touching with my lady.

8 Q. So that was probably kind of embarrassing,
9 but what kind of touching was going on in that room?

10 A. We were fondling, playing with each other,
11 touching each other in spots and places that are
12 sacred, if you would like to say that. That's
13 basically it, fondling.

14 Q. And did she touch you in any kind of way?

15 A. Yes.

16 Q. Can you tell the members of the jury
17 whether there was any oral sex performed in that
18 room?

19 A. There was. She performed oral sex on me.

20 Q. And was that a violation of the rules of
21 the contact visits?

22 A. Yes, it was.

23 Q. Did you have permission to do that at all?

24 A. No, I did not.

25 Q. And how was it that this was eventually

1 discovered?

2 A. There's a camera that's in the room. For
3 a long time things were happening since before that
4 we got caught. You know, we were doing a little
5 more touching and a little bit more excessive
6 kissing and hugging, and you know, that's frowned
7 upon, too. So week after week, when the wardens or
8 lieutenants or captains did not come through and
9 say, "Hey, you got to calm down on that touching a
10 little bit," or, "Calm down on this; no kissing so
11 much or hugging," or this or that, we figured that
12 the camera didn't work. And so we -- I and a couple
13 others took it a little further than just the
14 touching and the kissing and the hugging.

15 Q. And what happened once you were finally
16 caught and the video was produced?

17 A. The contact visits were terminated
18 indefinitely.

19 Q. And what other consequences did you
20 suffer?

21 A. They relocated us from that facility to
22 another facility. That's when we were moved to
23 Sandoval County.

24 Q. Did you have any good time or anything
25 else like that taken away from you?

1 A. No.

2 Q. Were you serving a state sentence anymore
3 at that point?

4 A. I was still serving a state sentence, but
5 I got -- I received a misconduct report for it. But
6 that was -- nothing ever came about it because we
7 got moved.

8 Q. Up to that point, were you receiving any
9 other benefits, such as receiving money or anything
10 of that nature?

11 A. I received money a couple of times.

12 Q. Do you remember how much money it was you
13 received?

14 A. Altogether?

15 Q. Yes.

16 A. I would say anywhere from 5- to \$700. I'm
17 not sure. It was two or three times I had received,
18 and there was 2- or 300 each time.

19 Q. Over what period of time, then, did you
20 receive that amount of money?

21 A. September -- August, up until December of
22 2016.

23 Q. And did that go on your commissary or how
24 did you receive the money?

25 A. On my inmate account. It came on my

1 inmate account.

2 Q. What types of items would you buy with
3 that money?

4 A. I'd buy art supplies, bought music on my
5 MP3 player, canteen, hygiene, stuff that I needed,
6 stuff that I wanted.

7 Q. And did you keep track of the money, or
8 whenever there is money on your books you would
9 spend to it buy things?

10 A. I would spend it to buy things.

11 Q. And do you recall if you got extra calls?

12 A. We had unlimited access to the phones.

13 Q. Anything else you recall receiving as a
14 benefit?

15 A. No.

16 Q. And once again, once you were caught, what
17 kind of phone access did you have after that?

18 A. The same. It took about a week and a half
19 for them to transfer us out of prison to Sandoval
20 County. And when we got to Sandoval County, we were
21 in a pod. We weren't locked down. So the phone --
22 there was three phones in the pod, so we still had
23 unlimited access to it, except for counts and
24 lockdowns.

25 Q. Give me a moment, Mr. Armenta. Let me

1 look for a document here. Ultimately, you
2 understand as part of your cooperation in this case
3 that you're required to testify truthfully in these
4 or any proceedings?

5 A. Yes.

6 Q. And as a result of your cooperation, are
7 you hoping to get some sort of reduction in your
8 sentence?

9 A. I would like to, yes.

10 Q. And ultimately who makes that decision?

11 A. The Honorable Mr. Browning.

12 MR. CASTELLANO: May I have a moment, Your
13 Honor?

14 THE COURT: You may.

15 MR. CASTELLANO: Thank you, Your Honor. I
16 pass the witness.

17 THE COURT: Thank you, Mr. Castellano.

18 Who is going to take the lead? Ms. Jacks?
19 All right. Ms. Jacks.

20 MS. JACKS: I'm warning everybody I'm
21 under the weather. So I'll do my best.

22 CROSS-EXAMINATION

23 BY MS. JACKS:

24 Q. Mr. Armenta?

25 A. Yes, ma'am.

1 Q. You killed Javier Molina; correct?

2 A. Yes, ma'am, I did.

3 Q. And how did you do that?

4 A. I stabbed him.

5 Q. How many times did you stab him?

6 A. I would say around 20, 21 times.

7 Q. Twenty or twenty-one?

8 A. Yes.

9 Q. And Jerry Montoya stabbed him 20 or 21
10 times?

11 A. Yeah, at least half.

12 Q. When you stabbed him, where did you stab
13 him?

14 A. I stabbed him on this side, the left side
15 first. And then I changed sides, because Mr.
16 Montoya had said, "Be careful, you're going to stab
17 me." And I changed to this side.

18 Q. So you first stab him in the area of the
19 chest where his heart is?

20 A. No, right here.

21 Q. On the other side?

22 A. On his left flank.

23 Q. And then you switched, and you stabbed
24 him --

25 A. On the right side.

1 Q. -- on the area where his heart is?

2 A. No. His heart is right here in the
3 middle. By the left side.

4 Q. So is it your testimony that you were
5 trying to avoid his heart?

6 A. Yes.

7 Q. Were you trying to kill him, according to
8 you?

9 A. No.

10 Q. You stabbed him 21 times and your
11 testimony is that you weren't trying to kill him?

12 A. No.

13 Q. What happened when he got out of the room
14 where you were stabbing him?

15 A. He ran out of the room, and we followed
16 him.

17 Q. And did you stab him any more?

18 A. No.

19 Q. As you followed him?

20 A. No.

21 Q. What did you do to him then?

22 A. I hit him.

23 Q. Where did you hit him?

24 A. In his head, in his face.

25 Q. Did you kick him?

1 A. No.

2 Q. And you did that as he was trying to
3 escape; right?

4 A. Yes.

5 Q. He was trying to get away from you?

6 A. Yes.

7 Q. And it's your testimony here in court,
8 under oath, that you weren't trying to kill him?

9 A. Yes.

10 Q. You know, I'm assuming that the entire
11 attack is on video; right?

12 A. Yes, I saw it.

13 Q. And on the video we can clearly see that
14 you and Mr. Montoya were attacking Mr. Molina;
15 right?

16 A. Yes, ma'am.

17 Q. Now, is it fair to say that ever since you
18 killed Mr. Molina, you've been doing whatever you
19 can to try to avoid consequences of your criminal
20 behavior?

21 A. No. I pled guilty to the murder of
22 Mr. Molina.

23 Q. Well, you pled guilty in hopes that by
24 becoming a Government witness -- let's just go back
25 for a second, okay? Because there were actually two

1 proceedings involving the murder of Mr. Molina;
2 right?

3 A. What proceedings?

4 Q. Well, there were some proceedings in New
5 Mexico state court; right?

6 A. Oh, yes, ma'am.

7 Q. And then there were proceedings in this
8 federal court.

9 A. After the state court had dismissed the
10 charges in the state, yes, then this one came.

11 Q. And in state court, were you offered a
12 plea bargain in exchange for your cooperation,
13 testifying as a witness for the district attorney?

14 A. No.

15 Q. You weren't?

16 A. No. I gave them testimony way before they
17 gave me a plea bargain.

18 Q. Were you offered a plea bargain in state
19 court?

20 A. Not till afterwards.

21 Q. My question was: Were you offered a plea
22 bargain in state court? And can you tell the jury
23 what the plea bargain you were offered in state
24 court was?

25 A. Involuntary manslaughter.

1 Q. So that means that you're admitting to a
2 homicide in which you didn't mean to kill the
3 person?

4 A. Yeah.

5 Q. And what was the amount of time that you
6 were supposed to get in exchange for pleading guilty
7 to involuntary --

8 A. Eighteen months to three years.

9 Q. And were you promised a sentence of 18
10 months in state prison?

11 A. It was kind of up in the air, but yeah.

12 Q. And was part of that sentence supposed to
13 be suspended as part of your plea bargain?

14 A. No, I do not believe it was.

15 Q. So you thought -- so in state court you
16 thought you'd settled the Javier Molina murder
17 case --

18 A. Yes.

19 Q. -- on very favorable terms?

20 A. Yeah.

21 Q. And then you got indicted in federal
22 court; right?

23 A. Right.

24 Q. And you made a deal to become a Government
25 witness?

1 A. I became a Government witness before the
2 indictment.

3 Q. Well, you were a witness --

4 A. I talked to the U.S. Attorney's Office
5 before.

6 Q. That's correct. At the time of your
7 indictment, you already were a Government witness.

8 A. Yes.

9 Q. And you actually were a witness first for
10 the DA and then for the federal government?

11 A. Yes.

12 Q. And as part of that -- as part of that
13 arrangement, were you offered -- or did you enter
14 into a cooperation plea agreement?

15 A. Yes.

16 Q. And as part of that cooperation plea
17 agreement, you're hoping that you're not going to
18 get a life sentence for the murder of Javier Molina;
19 right?

20 A. Yes.

21 Q. And what you're hoping is that in exchange
22 for agreeing to be a Government witness, that you're
23 going to get some sort of determinate sentence that
24 you'll be able to get out of jail?

25 A. At some time, yes.

1 Q. So my question is: Ever since you killed
2 Mr. Molina, you've been doing what you can to avoid
3 the full consequences of your criminal behavior,
4 haven't you?

5 A. Yes, ma'am.

6 Q. What was the first thing?

7 MR. JEWKES: Your Honor, could we ask the
8 witness to speak up?

9 A. Sorry. I just was a little far away.

10 Q. Mr. Armenta, was the first thing that you
11 did to try to get out of the consequences of your
12 criminal behavior -- was that to lie and say that
13 you were just standing there at the pod door when
14 this all happened?

15 A. Yeah.

16 Q. And then I think you told us the second
17 thing you did was -- or the second way you tried to
18 get out of it is, you cooked up a story with Mario
19 Rodriguez and Timothy Martinez?

20 A. Not myself to get out of it; to get Mario
21 Rodriguez and Mr. Montoya out of it.

22 Q. And that story also included that you
23 killed Mr. Molina in the course of an argument --

24 A. Yes.

25 Q. -- right? To try to say that this was a

1 sudden argument that was brought on by his insulting
2 your daughter and telling you "Fuck you"; right?

3 A. Yeah.

4 Q. So that was try Number 2, right?

5 A. Yes.

6 Q. And then try Number 3 or attempt Number 3
7 was to try to say that you did it, but you didn't
8 purposely -- you weren't purposely trying to kill
9 him?

10 A. Yes.

11 Q. And today you're sitting here in court and
12 you're telling us that now -- now you're telling us
13 that you did it because Mr. Sanchez made you?

14 A. He did.

15 Q. Mr. Armenta, in the past when you've
16 committed criminal acts, those tend to come pretty
17 easy to you, don't they?

18 A. Yeah. I sold drugs.

19 Q. People don't have to make you commit
20 criminal acts, do they?

21 A. No.

22 Q. Were you convicted of drug trafficking by
23 distribution of cocaine, date of offense December 8,
24 1999, in Bernalillo County?

25 A. Yes, ma'am, I was.

1 Q. And were you also convicted of drug
2 trafficking by distribution of cocaine, date of
3 offense May 5, 2000, in Bernalillo County?

4 A. Yes, ma'am, I was.

5 Q. And were you also convicted of drug
6 trafficking by distribution of cocaine, an offense
7 date of April 24, 2000, in Bernalillo County?

8 A. Yes, ma'am.

9 Q. And were you convicted of aggravated
10 battery in 2006 in Guadalupe County?

11 A. Yes.

12 Q. And then were you convicted of two counts
13 of contributing to the delinquency of a minor for
14 offenses that occurred between August 1st, 2011, and
15 February 29, 2012?

16 A. Yes, ma'am.

17 Q. And those were offenses that you committed
18 while you were out on bail on another case; right?

19 A. Supposedly, the first offense happened
20 before I picked up my fourth trafficking case. And
21 then supposedly, the second incident happened
22 afterwards, yes.

23 Q. So you were out on bail and you were
24 reporting to Pretrial Services?

25 A. Yes.

1 Q. And you were then committing acts that
2 ultimately ended up in your conviction for
3 contributing to the delinquency of a minor?

4 A. I was accused of something.

5 Q. Are you telling me you didn't do what you
6 were accused of?

7 A. Yes.

8 Q. So you were falsely in prison for that?

9 A. Well, I pled to it. But there's reasons
10 behind that.

11 Q. Were you convicted again of drug
12 trafficking in October of 2014?

13 A. Yes, ma'am.

14 Q. And that was a case that was actually
15 pending against you when you killed Javier Molina;
16 right?

17 A. Yes, ma'am.

18 Q. And it just took that long for the case to
19 be finished?

20 A. Yes, ma'am.

21 Q. Now, I want to talk to you a little bit
22 about the contributing-to-the-delinquency-of-a-minor
23 case.

24 A. Okay.

25 Q. And you testified this morning -- and I

1 think this morning, really, maybe not so much this
2 afternoon -- about your family and how much your
3 family and your daughters mean to you.

4 A. Um-hum.

5 Q. And I think we've seen the letter that you
6 wrote to Jerry Montoya. Is that exhibit around?
7 We've seen this letter, the letter that you wrote to
8 Jerry Montoya that's marked as Government's Exhibit
9 757. The letter that never got delivered; the
10 letter got intercepted. Do you recall that?

11 A. Yes.

12 Q. I'm going to put it up here. And you talk
13 in this letter -- or you write in this letter to Mr.
14 Montoya -- let me see if I can find it here. "I'm a
15 dad first and that means more to me than this fake
16 ass onda." Did you write that?

17 A. Yes, ma'am.

18 Q. So what you're trying to communicate to
19 Mr. Montoya is that you're a father first and a gang
20 member somewhere down the line?

21 A. Yeah.

22 Q. And looking at the second page, did you
23 write to Mr. Montoya, "Am I get it right at home
24 with the fam, yep"?

25 A. Yes.

1 Q. What does that mean?

2 A. That means I'll be home again one day with
3 my family.

4 Q. The truth is, Mr. Armenta, that you never
5 actually held a real job and supported your family;
6 right? That's the truth; right?

7 A. Yeah.

8 Q. And the truth is, you were never really
9 there for your family?

10 A. Oh, I was there.

11 Q. You were a gang banger and a crack addict;
12 right?

13 A. Until 2008 I was smoking crack, when my
14 first daughter was born.

15 Q. And you stole your family's money and you
16 stole their possessions to feed your addiction,
17 didn't you?

18 A. No. I had problems, but I never stole
19 from them.

20 MS. JACKS: Your Honor, may we approach?

21 THE COURT: You may.

22 (The following proceedings were held at
23 the bench.)

24 MS. JACKS: I'm going to stand back
25 because I don't want to get everybody sick. But at

1 this point I think that the facts of the
2 contributing to the delinquency of a minor, the
3 underlying facts of those convictions should be
4 permitted in. And I have a few reasons. Number
5 one, first of all, the victim in that case -- it was
6 a sexual contact with a minor between the ages of 13
7 and 18. The victim in this case is one of the
8 daughters in the family.

9 THE COURT: Is what?

10 MS. JACKS: The victim in the case is one
11 of the daughters in Mr. Armenta's family. It's his
12 own daughter. She removed the doorknob from her
13 bedroom door and slept with a hammer under her
14 pillow. The family has cut him off and are furious
15 with him and don't want him to return to his family
16 This is a complete charade.

17 Number two, I think it impeaches his claim
18 that he's SNM. He's told us very clearly the people
19 in SNM -- that people in the SNM doesn't permit
20 people in the gang that have sex, sexual misconduct,
21 particularly with children.

22 And he's told inconsistent stories about
23 whether he's an SNM Gang member. According to even
24 what he says, he would not be permitted in.

25 Number two, I think -- or number three, I

1 think, on direct he talked about having, quote
2 "minor run-ins with the law." I think to sexually
3 assault your daughter is not a minor run-in with the
4 law.

5 And finally, he used his tablet and he was
6 able to hook up to the internet to search -- conduct
7 searches that including searching for the location
8 of his victim in the sex offense.

9 MR. CASTELLANO: I mean, she led him
10 through a winding road of questions in an attempt to
11 goad him in a position to where she could get into
12 the facts behind the contributing charge. That's
13 unfair to ask him a lot of questions like that to
14 goad him into a position where she's been allowed to
15 go behind the conviction. When I asked about
16 run-ins with the law, I asked about charges that
17 were dismissed. He mentioned one of the charges, I
18 think, was a theft or something like that. And the
19 charge was ultimately dismissed. And that's what
20 that referred to, were run-ins where -- things that
21 didn't happen. And now we're going to get into a
22 collateral issue about this conviction.

23 THE COURT: I probably won't let any proof
24 in. I think it may be collateral, but I will allow
25 her to go into this. I think he's opened up some

1 doors and leaving a false impression. If she can
2 establish with the witness, I think that's fine. If
3 she can't, I'll bring it to an end. I probably
4 won't have any additional proof. But I'll let you
5 do what you want to with the witness.

6 MR. CASTELLANO: I would object. She
7 goads him into answers to go behind that. I don't
8 think that's a fair examination in order to bypass
9 the rule on using a prior conviction for
10 impeachment, Your Honor.

11 MS. JACKS: I just want to respond to
12 that, because I didn't goad him into this. This was
13 a reason that came out of direct examination of this
14 witness.

15 THE COURT: I'll let you ask the questions
16 of the witness.

17 (The following proceedings were held in
18 open court.)

19 THE COURT: Ms. Jacks.

20 BY MS. JACKS:

21 Q. So Mr. Armenta, the contributing to the
22 delinquency of a minor convictions -- those
23 convictions were a plea bargain, right, from a worse
24 charge; right?

25 A. Yes, ma'am.

1 Q. And what was the original charge that you
2 plea bargained down to this contributing to a
3 delinquency of a minor?

4 A. Sexual contact of a minor.

5 Q. Sexual contact with a minor between the
6 ages of 13 and under 18; right?

7 A. Yes.

8 Q. Who was the victim in that offense?

9 A. My wife's older daughter.

10 Q. And how old was she?

11 A. Fourteen.

12 Q. And the truth about your conduct in that
13 case is that you used your position as father in the
14 family to apply force to that 14-year-old's
15 genitals; correct?

16 A. No, I did not.

17 Q. Your daughter -- did your daughter become
18 distraught over your conduct with her from August of
19 2011 through February of 2012, while you were out on
20 bail?

21 A. No.

22 Q. Did the case come to the attention of
23 authorities after she removed her -- the doorknob
24 from her bedroom door and slept with a hammer under
25 her pillow?

1 A. Okay, look --

2 Q. Do you think that's funny, Mr. Armenta?

3 A. My wife, her mom, had me remove her door
4 from her room because she was doing a lot of things
5 that weren't -- she wasn't listening to her. And
6 she slept with a hammer -- it was there in her room
7 because she was putting up hundreds of pictures of
8 her dad and her grandpa and everyone that had passed
9 away. And she had the nail box that we have in her
10 room.

11 Q. Mr. Armenta, was the case pled down to
12 contributing to the delinquency of a minor?

13 A. Yes, it was.

14 Q. Because your daughter was too traumatized
15 and too scared to come testify in court against you?

16 A. No, I was ready for court, and I was ready
17 for trial, and so was she.

18 Q. The truth is that your daughter doesn't
19 want to see you anymore; right?

20 A. Well, she's not my real daughter.

21 Q. Oh. Does that make it okay?

22 A. No, but she's not my real daughter.

23 Q. The truth is, her mother -- there is no
24 family to go home to. The mother never wants to see
25 you again.

1 A. No.

2 Q. No, she does want to see you?

3 A. No, she doesn't.

4 Q. She doesn't?

5 A. I don't want to see her, either.

6 Q. So this family, these children that you've
7 got to go home to -- that doesn't exist; that's a
8 fiction?

9 A. She can't take my children from me.

10 Q. The truth is, your wife doesn't speak your
11 name to the children, does she?

12 A. No, she calls me "ghost dad."

13 Q. And she wants to change her name and the
14 children's names, so they don't have to think about
15 you and what you did to the family.

16 A. I didn't do nothing to the family.

17 Q. You didn't?

18 A. No.

19 Q. Is it your testimony that you have no
20 interest in young girls under the age of 18 --

21 A. I have no --

22 Q. -- for your sexual pleasure?

23 A. No.

24 Q. Absolutely none?

25 A. None.

1 Q. Well, let's talk a little bit about your
2 tablet, because I think you told us on direct
3 examination that you reset your tablet; right?

4 A. Yes.

5 Q. And you lost the discovery, but you gained
6 a lot of other stuff; right?

7 A. Yes, ma'am.

8 Q. You got -- tell us what you used the
9 tablet for.

10 A. Music, porn, music videos, Google, you
11 know, searching the web.

12 Q. Facebook?

13 A. Facebook.

14 Q. Email?

15 A. Emailed my girlfriend, yeah.

16 Q. Did you use your tablet to search for your
17 wife, to try find out where she was currently
18 living?

19 A. No, I was searching so I could get
20 pictures of my daughters.

21 Q. So you do admit that you Googled your
22 wife, your wife's name?

23 A. No, I just looked them up on Facebook.

24 Q. I'm sorry?

25 A. I just looked her up on Facebook.

1 Q. Did you look for addresses or for maps of
2 where she was currently living --

3 A. No.

4 Q. -- while you were in custody on this case?

5 A. No.

6 Q. And let's talk a little bit about the
7 pornography, because at some point you got access to
8 the internet; right?

9 A. Yes, ma'am.

10 Q. Let's see. You reset the tablet in
11 January, and you had it through April of 2017?

12 A. Yes.

13 Q. So that was right after you got caught
14 having sex with somebody multiple times in the
15 visiting room?

16 A. Um-hum, yes.

17 Q. At the Penitentiary of New Mexico?

18 A. Yes, ma'am.

19 Q. And so you reset the tablet, and then when
20 did you gain internet access?

21 A. Where?

22 Q. When?

23 A. Late January in Sandoval County.

24 Q. Late January of 2017?

25 A. Yes, ma'am.

1 Q. And you had internet access through April
2 of 2017?

3 A. Yes, ma'am.

4 Q. You know that your tablet has been seized;
5 right?

6 A. Yes, ma'am.

7 Q. And you're aware that it's been turned
8 over to the defense just a week or so ago for
9 forensic examination?

10 A. Yes.

11 Q. Has somebody talked to you about that?

12 A. Yes.

13 Q. The prosecutors?

14 A. Yes.

15 Q. So I'm going to ask you -- you're telling
16 us you have no interest in young girls under the age
17 of 18?

18 A. No.

19 Q. I'm going to ask you if, on April 8 of
20 2017, you conducted a Google search for "petite teen
21 vaginas"?

22 A. I don't recall that.

23 Q. That would be a search for pornography;
24 right?

25 A. Yeah.

1 Q. And you admitted you used the tablet for
2 pornography?

3 A. Yes.

4 Q. Did you conduct a Google search on April
5 6, 2017, for "hot sick teens"?

6 A. I can't recall that either.

7 Q. Did you -- really? You can't?

8 A. No.

9 Q. Did you conduct a Google search on April 4
10 of 2017, for "teen camel toes"?

11 A. I don't recall. Possibly.

12 Q. What's a camel toe?

13 A. A camel toe is a woman's vagina through
14 her clothes; the look of it, the indentation, or
15 whatever, that it makes.

16 Q. On April 4 of 2017, did you conduct a
17 search for "pink teen vaginas"?

18 A. I do not recall.

19 Q. How about on April 5, "for young teenage
20 camel toes"?

21 A. I don't recall.

22 Q. Did you conduct a search on April 7 of
23 2017 for "teen tits"?

24 A. I don't recall, ma'am.

25 Q. Did you conduct a search on April 5 of

1 2017 for "big fat teen asses"?

2 A. I don't recall none of that.

3 Q. Did you conduct a search on April 7, 2017
4 for "young teens with big tits"?

5 A. I don't recall.

6 Q. Were you on drugs or something at the
7 time? Is that what was affecting your memory?

8 A. No, I just think that it might have been
9 other inmates that were in the pod with us. They
10 knew about our tablets. They knew about the
11 internet, and they were using them also, so --

12 Q. Were they also in custody for contributing
13 to the delinquency of a minor, pled down from sexual
14 conduct with a minor under 18?

15 A. Not that I'm aware of.

16 Q. Did you conduct a search on April 6 of
17 2017 for "hot sick teens"?

18 A. Not that I recall, ma'am.

19 Q. Did you conduct a search for "big teen
20 booties" on April 4?

21 A. I don't remember none of that.

22 Q. Did you conduct a search on April 5 for
23 "teeny bopper camel toes"?

24 A. No, I can't remember that.

25 Q. You know -- that one you didn't do, or you

1 can't remember?

2 A. I can't recall none of that.

3 Q. Did you conduct a search on April 4 for
4 "hot young naked girls"?

5 A. I don't recall.

6 Q. How about the same day for "small teen
7 vaginas"?

8 A. I don't recall.

9 Q. April 5 of 2017 for "teen asses"?

10 A. I don't recall.

11 Q. April 7, 2017, "young teens naked big
12 tits"?

13 A. I don't recall, man.

14 Q. How about on April 5, "South American
15 naked tribal teens nude"?

16 A. No, not that I recall.

17 Q. Well, what kind of searches did you make,
18 Mr. Armenta?

19 A. I searched -- like I went to Facebook and
20 my MySpace. I talked a lot with my girlfriend on
21 there. I looked up the International Space Station.
22 I looked at my girlfriend's house on Google Maps. I
23 wasn't on it 24/7. I already had a dose of the
24 internet when I was out last, so I wasn't always on
25 it.

1 Q. Mr. Armenta, while you were in prison, did
2 you call your 14-year-old stepdaughter on her
3 cellphone with your brother?

4 A. Call her?

5 Q. Yes.

6 A. Did I call her?

7 Q. Yeah.

8 A. No.

9 Q. Did you call any children in your
10 household with your brother, female children?

11 A. No.

12 Q. Did you ever make phone calls while you
13 were in prison with your brother on a three-way, and
14 tell the children -- tell the child to play with her
15 flower, and to tell you the details?

16 A. That was a charge that my brother picked
17 up on his own. Him and my oldest stepdaughter had a
18 relationship going on. And STIU in Grants picked up
19 on it, and found out she was a minor, and charged
20 him with -- I'm not sure the name of it, the charge
21 of sexual through a telephonic device, or something
22 like that.

23 Q. Some of those calls were three-way calls
24 that you were on, weren't they?

25 A. No.

1 Q. Now, also on direct examination we've
2 heard a lot of things about your special-needs
3 daughter.

4 A. Yes, ma'am.

5 Q. How old is she now?

6 A. She is 7.

7 Q. And your claim or your testimony is that
8 you stopped using crack when she was born?

9 A. No, that would be Aleah, 2008.

10 Q. So there is an older one. You're saying
11 you stopped using crack before this special-needs
12 daughter was born?

13 A. Yes.

14 Q. That's a lie, isn't it?

15 A. No. I used cocaine, but not crack.

16 Q. Oh. Oh. Wait. Let's get this straight.
17 So what is crack?

18 A. Crack is a form of cocaine, but it is
19 smoked. The form of cocaine that I was using after
20 my daughter was born was in the form of powder. I
21 was snorting it.

22 Q. Okay. So just so that we're clear, then,
23 you've continued to use cocaine even after all your
24 daughters were born; right?

25 A. Occasionally, yes, ma'am.

1 Q. And your testimony is that you stopped
2 using crack, you stopped smoking cocaine?

3 A. Yeah. Crack was my problem. When I get
4 on it, I would not stop.

5 Q. And cocaine is not a problem?

6 A. No.

7 Q. A few years ago your special-needs
8 daughter -- she has a heart and a lung problem;
9 right?

10 A. Yes.

11 Q. And a few years ago she needed some
12 special medical attention from a high-powered
13 medical center; right?

14 A. She had a heart surgery a few days after
15 she was born.

16 Q. A few years ago did she have to go to
17 Stanford University Hospital for surgery?

18 A. Yes, in 2010.

19 Q. And in 2010, did the Ronald McDonald House
20 at Stanford University agree to pay for you and your
21 wife to come and be with your young daughter when
22 she had surgery?

23 A. No, they did not.

24 Q. So that never happened?

25 A. Ronald McDonald didn't pay for nothing.

1 Q. Did you go? Were you able to go?

2 A. Yes, we went. We were there for two
3 weeks.

4 Q. And you were in Palo Alto for two weeks,
5 in Palo Alto, California?

6 A. Yes, ma'am.

7 Q. And while you were there, did the Ronald
8 McDonald House open up a bank account for you and
9 your wife so that you could pay for your living
10 expenses while you were there helping your daughter
11 recover from the surgery?

12 A. No. My mother opened up that bank account
13 so that family members could send us money if we
14 needed it.

15 Q. You took the money in that bank account,
16 didn't you?

17 A. No. Me and my wife used it.

18 Q. You took the money out of the bank account
19 and went and bought crack, and left your wife and
20 your daughter stranded at the hospital with nothing?

21 A. No.

22 Q. That's not true?

23 A. No, that's not true.

24 Q. And when you came back to the hospital,
25 after you'd spent the money on drugs, you got into a

1 fight with your wife there at that Stanford
2 University Hospital, didn't you?

3 A. No.

4 Q. And you threatened to blow up her house
5 with the kids in it?

6 A. That was a fight in Albuquerque, New
7 Mexico.

8 Q. That's a different fight?

9 A. That -- we didn't have a fight in
10 Stanford, in Palo Alto.

11 Q. Did the nurses at Stanford University
12 Hospital have to call the police to come respond --

13 A. No.

14 Q. -- to the fight between you and your wife
15 that happened after you stole money from the bank
16 account?

17 A. No. There was no money that was ever
18 stolen from an account in Palo Alto or in
19 Albuquerque, New Mexico. We were fighting about
20 something different in Albuquerque.

21 Q. I'm asking you about the fight that
22 occurred in Palo Alto.

23 A. There wasn't a real fight that happened in
24 Palo Alto, ma'am.

25 Q. Now, Mr. Armenta, you've told a lot of

1 different stories about your SNM membership, too,
2 haven't you?

3 A. Yes.

4 Q. Sometimes you're a member, sometimes
5 you're not?

6 A. No, I was a member.

7 Q. But you've told different stories about
8 that, haven't you?

9 A. What do you mean?

10 Q. You said different things?

11 A. Like?

12 Q. Like sometimes you say you are a member of
13 SNM, and other times you say you're not.

14 A. No, I say I'm not an SNM Gang member now.

15 Q. Okay. But I'm talking about before. I'm
16 talking about before today. I'm talking about
17 before you made a deal with the Government.

18 A. I was an SNM Gang member. I always was.

19 Q. My question is: You've told different
20 stories about that; right?

21 A. No.

22 Q. Let me direct you to September 1st of
23 2015.

24 A. Okay.

25 Q. And there was -- let me just orient you a

1 little bit. We talked about this letter -- or the
2 Government talked with you about this letter,
3 Government's Exhibit 757. And this is the letter
4 you wrote in January of 2015 to Jerry Montoya's
5 lawyer; right?

6 A. Yes, ma'am.

7 Q. And this was the letter that had a story
8 about the Molina murder that you cooked up with
9 Mario Rodriguez and Timothy Martinez; right?

10 A. Yes, ma'am.

11 Q. And the goal of this letter was to get Mr.
12 Montoya off by you being a witness for him?

13 A. By me taking the blame for him.

14 Q. Okay. And as a result of this letter, did
15 Mr. Montoya's criminal defense lawyer provide or
16 make a motion to the judge to give immunity and
17 order you to attend a deposition to see what you
18 knew?

19 A. I was never granted or awarded immunity.
20 He did get me to -- down here to Dona Ana County
21 Jail, and I was interviewed by him, my attorney, and
22 Mr. Dougherty, the district attorney.

23 Q. So we're talking about this interview. Do
24 you know what date that happened?

25 A. Not exactly. But I know it was like

1 either the beginning -- first few days of September,
2 or the last few days of August.

3 Q. Okay. Well, if I told you I had a
4 transcript of that interview, where it started out
5 with: "Today is September 1st. We're present with
6 Mr. Jerry Armenta; his attorney, Gary Mitchell;
7 representing the State is Dan Dougherty;
8 representing Jerry Montoya is myself, Mario Esparza;
9 our public defender investigator Olivia Moraz"?

10 A. Yes.

11 Q. Would that refresh your memory that that
12 incident or that deposition occurred September 1st
13 of 2015?

14 A. Yes.

15 Q. And prior to asking you questions, did
16 your lawyer -- you were asked questions by Mr.
17 Montoya's lawyer; right?

18 A. Yes.

19 Q. During that deposition?

20 A. Yes, ma'am.

21 Q. And prior to answering questions from Mr.
22 Montoya's lawyer, did your lawyer say, "Let me make
23 a statement from this tape. We're giving this
24 statement pursuant to an order from a district judge
25 in the Third Judicial District granting you

1 immunity." I'll finish reading it, "which means
2 that" --

3 MR. CASTELLANO: Objection, Your Honor, to
4 counsel reading a transcript. If she wants to
5 refresh recollection, she can show it to the
6 witness.

7 THE COURT: Don't read the transcript. If
8 you want to refresh his memory, we'll have to do it
9 the long way.

10 BY MS. JACKS:

11 Q. Mr. Armenta, does that refresh your memory
12 as to whether you were granted immunity for that
13 interview?

14 A. I don't remember that.

15 THE COURT: I think you need to show him,
16 if you're going to refresh his memory, rather than
17 reading it to the jury.

18 Q. We'll go forward. Do you know what
19 "immunity" means, Mr. Armenta?

20 A. It means I think that you would be, like,
21 free from prosecution, I believe.

22 Q. Right. Like whatever you say can't be
23 used against you?

24 A. Yeah.

25 Q. So if you are granted immunity, would you

1 have any reason to lie?

2 A. No.

3 Q. Because you tell the truth; it doesn't
4 matter; right?

5 A. Right.

6 Q. So during the course of this deposition,
7 what did you say about your SNM Gang membership; do
8 you remember?

9 A. Not word for word. I believe that I was a
10 gang member -- I said I was a gang member, and that
11 I didn't want to be a gang member anymore.

12 Q. Did you say that you were a suspected SNM
13 Gang member, according to the Department of
14 Corrections, but that you weren't?

15 A. No, that was a validated SNM Gang member
16 by the Department of Corrections.

17 Q. Did you say that you were a suspected
18 validated SNM Gang member, but you're not?

19 A. No, I don't believe -- I've never denied
20 my validation until now. I don't want to be an SNM
21 Gang member anymore.

22 MS. JACKS: Your Honor, may I approach
23 with two pages of this transcript?

24 THE COURT: You may.

25 MS. JACKS: May I approach, Your Honor?

1 THE COURT: You may.

2 BY MS. JACKS:

3 Q. For the record, this is pages 8 and 9 of
4 the transcript. And Mr. Armenta, I ask you to read
5 to yourself the bottom of paper 8 and top of page 9
6 and let me know when you're done.

7 A. I don't recall saying that, but it's
8 there, so obviously, I did say it. I don't recall,
9 though.

10 Q. You did say that; right? So on September
11 1st, 2015, you claimed to the DA and to Mr.
12 Montoya's lawyer -- you claimed that you were a
13 suspected validated SNM Gang member by the
14 Department of Corrections, but that that was not
15 true; right?

16 A. Yeah, that's what it says there.

17 Q. Then two weeks later, on September 17 of
18 2015, did you have an interview with the district
19 attorney's office again, but this time in the
20 presence of federal prosecutors?

21 A. Yes.

22 Q. And in that interview on September 17 of
23 2015, did you tell the prosecutors and the district
24 attorney that you were, in fact, an SNM Gang member?

25 A. Yeah.

1 Q. Right. And that was the interview where
2 you were kind of trying out to see if you could be a
3 Government witness; right?

4 A. Well, I wouldn't say I was trying out. I
5 was just telling them what happened, what I knew.

6 Q. Well, at that point in time, you were
7 hoping to resolve your state case in a favorable
8 manner by testifying against our people; right?

9 A. Yeah.

10 Q. And the way that you were going to resolve
11 your state case in a favorable manner was by saying
12 that the crime you committed was ordered by SNM;
13 right?

14 A. Yes.

15 Q. So in that interview, it served your
16 purpose to say that you were an SNM Gang member?
17 Would you agree with me?

18 A. Yes.

19 Q. And so in that interview you said, "I'm an
20 SNM Gang member."

21 A. Yes.

22 Q. Right? Whereas, two weeks prior, you said
23 you weren't?

24 A. Yeah.

25 Q. So which is the truth?

1 A. I'm an SNM Gang member, validated SNM Gang
2 member.

3 Q. Well, "validated" means the Department of
4 Corrections has checked off their criteria, and they
5 believe that they have enough evidence to prove
6 you're an SNM Gang member; right?

7 A. Yes.

8 Q. That's what "validated" means?

9 A. Yes.

10 Q. That's a judgment by the Department of
11 Corrections; right?

12 A. Yes.

13 Q. So potentially somebody could be validated
14 and not be an SNM Gang member, right, potentially?

15 A. Yes.

16 Q. So when I'm asking you -- I'm not asking
17 you what the Department of Corrections is labeling
18 you. I'm asking you what is the truth.

19 A. Yes, I am.

20 Q. And you told us you're also a sex
21 offender; right?

22 A. No.

23 Q. Well, you're a convicted sex offender?

24 A. No.

25 Q. If anybody looked at your paperwork from

1 your case where you were accused of having sexual
2 contact with your 14-year-old stepdaughter, they
3 would believe that you were a sex offender?

4 A. Because they were arrests, yeah.

5 Q. So you told us this morning when Mr.
6 Castellano was asking you questions that SNM rules
7 don't permit sex offenders --

8 A. Yes.

9 Q. -- right?

10 A. Yes.

11 Q. So if SNM rules are applied, you couldn't
12 be an SNM Gang member, could you?

13 A. I was already an SNM Gang member.

14 Q. Well, you're saying that SNM wouldn't kick
15 you out if they found something out after the fact
16 that would have violated the rule?

17 A. They probably would have killed me if they
18 found out that it was true. But then again, I'm not
19 a sex offender.

20 Q. Well --

21 A. And it's not in the system that I am a sex
22 offender.

23 Q. Well, it's in court documents and
24 paperwork, isn't it?

25 A. No.

1 Q. And certainly your wife thinks you are?

2 A. I don't have to register.

3 MR. CASTELLANO: Objection, Your Honor.

4 THE COURT: Sustained. Don't argue.

5 BY MS. JACKS:

6 Q. Certainly, your wife would tell --

7 THE COURT: Just ask the questions.

8 Q. Certainly, if your wife were asked if you
9 were, she would verify it?

10 MR. CASTELLANO: Objection, calls for
11 speculation.

12 THE COURT: Sustained. Sustained.

13 BY MS. JACKS:

14 Q. So if you're an SNM Gang member, then the
15 rule about sex offenders isn't really much of a
16 rule, is it?

17 A. Oh, it's a rule. But if I would have went
18 there telling them that I was arrested for a sex
19 crime, I would have been killed or beat up. But if
20 I would have had those convictions, there is no way
21 I would have even stepped foot in that facility.

22 Q. Well, you were convicted for two counts of
23 contributing to the delinquency of a minor?

24 A. Yes, ma'am, but it's not a sex crime.
25 It's not a sex charge. It's not a sex conviction.

1 Q. It's a plea bargain down from a sex
2 charge. I think we established that.

3 A. Yes.

4 Q. So earlier this morning, Mr. Castellano
5 asked you a question about how do you get out of the
6 gang. Do you remember that question?

7 A. Yes.

8 Q. And he showed you a page from your STIU
9 file -- I think it had a stamp on the bottom of
10 it -- I want to say it was 10331; do you recall
11 that?

12 A. Yeah. This morning.

13 Q. And your testimony was: In answering
14 questions that were proposed to you by the Security
15 Threat Intelligence Group that you answered, "You
16 don't. You don't get out"?

17 A. Yes, ma'am.

18 Q. Right. But you said different things in
19 those same interviews, haven't you?

20 A. Like what?

21 Q. Well, I have a page that's marked 10333.
22 This is also from your inmate Security Threat Group
23 validation package.

24 MS. JACKS: Your Honor, may I approach and
25 show this to the witness?

1 THE COURT: You may.

2 BY MS. JACKS:

3 Q. Mr. Armenta, that's a page just like the
4 page that Mr. Castellano showed you this morning;
5 right? It's the same questionnaire, just a
6 different date?

7 A. Yes.

8 Q. And you were asked the exact same
9 question; right? "How do you get out of the gang?"
10 Do you see that at the bottom of the page?

11 A. Yes, ma'am.

12 Q. And what did you respond?

13 A. "Walk away."

14 Q. I can't hear you.

15 A. "Walk away." Yeah, this is the street
16 gang, not the SNM Gang. Because that's dated 2004,
17 and I wasn't in the SNM until 2005.

18 Q. It's an interview in your STIU validation
19 package; right?

20 A. Yes.

21 Q. By the Department of Corrections?

22 A. Yes, ma'am. It's pertaining to my street
23 gang affiliation, not prison gang affiliation.

24 Q. I hear that. I hear that.

25 Now, I want to talk to you about your

1 stories regarding the Molina murder. And I want to
2 start with the first story you gave. And the first
3 story you gave -- do you remember what it was -- on
4 May 8 of 2014?

5 A. That I was standing by the door when he
6 was getting beat up.

7 Q. And did you tell law enforcement that,
8 "From what I understand, the guy got beat up"?

9 A. Yes.

10 Q. So like you had nothing to do with it?

11 A. Yes.

12 Q. And did you also tell them, quote, "I
13 didn't become involved"?

14 A. Yes, I believe I did say that.

15 Q. Now, how did that story work for you?

16 A. It didn't. It didn't.

17 Q. It didn't work because there was the
18 video; right?

19 A. Yeah.

20 Q. And the video clearly showed that that
21 story was a lie?

22 A. And I quit speaking right after that.

23 Q. Because during that interview, after you
24 made those statements, that's when law enforcement
25 told you: "We have a video"?

1 A. Yeah.

2 Q. "We know you weren't standing by the
3 door."

4 A. They didn't actually say that. They were
5 still in the early stages of the investigation, so
6 they didn't reveal too much about anything.

7 Q. But they told you they had a video; right?

8 A. They might have.

9 Q. And you knew during that interview that
10 that story had flopped?

11 A. I knew they had a video anyway. The
12 cameras weren't covered up.

13 Q. So after that story didn't work, you had
14 to come up with a different story to try to get out
15 of punishment for the murder of Mr. Molina; right?

16 A. I wasn't trying to get out of punishment.

17 Q. Well --

18 A. I was trying to get other people out of
19 punishment.

20 Q. Well, you were also trying to reduce your
21 own punishment, weren't you?

22 A. Well, yeah.

23 Q. Because there is certainly a difference
24 between doing something in a premeditated, planned
25 fashion and doing something out of anger; right?

1 A. Yes.

2 Q. So to come up with your second story --
3 and the second story was that Mr. Molina had somehow
4 insulted your special-needs daughter; right?

5 A. Yes.

6 Q. And had told you to "fuck off," when you
7 got into an argument about wanting a syringe or
8 something; right?

9 A. Yes, ma'am.

10 Q. And that's a story that's outlined in this
11 letter that's up here on the Elmo, Government's
12 Exhibit 756; right?

13 A. Yes, ma'am.

14 Q. So I want to talk to you a little bit
15 about how you came up with the story. But let's
16 start -- I'm going to ask you to read the letter.

17 MS. JACKS: May I approach?

18 THE COURT: You may.

19 BY MS. JACKS:

20 Q. So I'm going to ask you to read the letter
21 out loud, Mr. Armenta.

22 A. Start now?

23 Q. Yes.

24 A. Okay. "This letter is to the lawyer of
25 Jerry Montoya. I, Jerry Armenta, am writing this

1 statement for Jerry Montoya on my own free will. I
2 am not under the influence of any kind of drugs or
3 medications. I am not promised any sort of gifts,
4 money, or immunity, nor am I being threatened to
5 write this statement. On March 7, 2014, an incident
6 occurred at SNMCF that ultimately led to the
7 untimely death of Mr. Javier Molina. That day Jerry
8 Montoya and I were promised drugs by inmate Timothy
9 Martinez. After 5:00 p.m. count cleared, we were
10 invited to Mr. Martinez' -- by Mr. Martinez to go
11 into room 105 in housing unit 1-A, B pod to shoot up
12 a drug known as Suboxone. Jerry Montoya and I were
13 invited, and then entered the room and were greeted
14 by Timothy Martinez with a paper of the drug, which
15 he gave one each to us, a paper which is wrapped in
16 plastic. After the transaction, I asked to then use
17 the syringe so I could shoot up. I was immediately
18 answered with a 'Fuck no' and a 'Fuck you' by
19 Mr. Javier Molina. We then began exchanging words,
20 and he very hostilely continued to disrespect me and
21 threaten the lives of myself and my precious little
22 daughter, which is mentally handicapped. We then
23 got into a physical altercation, which Jerry Montoya
24 did not know was going to happen. I didn't even
25 know it was going to happen. I acted clearly out of

1 instinct because I thought that it or my life was in
2 clear and present danger. During this incident,
3 Jerry Montoya did not attack Mr. Javier Molina, nor
4 was he ever in possession of a shank. The incident
5 in the room was between myself and the deceased.
6 Jerry Montoya nor anyone else have any involvement
7 with the incident that happened in room 105 B pod on
8 the date of March 7, 2014. I swear that this
9 written statement is true and honest to the written
10 facts to the best of my knowledge and recollection
11 of the actions of that day. I will swear to this
12 written statement in open court and under oath.

13 Respectfully submitted by myself, Jerry Armenta."

14 Q. Okay. Thank you, Mr. Armenta. I'm going
15 to put that up on the screen. I want to ask you a
16 few questions about this story and how you came up
17 with it. So let's just start by -- I think you told
18 us that you had some input or that somebody came up
19 with the story and then you discussed it with them;
20 is that right?

21 A. Yes.

22 Q. So who came up with the general story
23 line?

24 A. Well, not one person came up with the one
25 story. Most of this story was -- the most part

1 where I used the -- my daughter thing, about me and
2 him getting into a fight, and him saying things
3 about my daughter -- that was my idea. Because I
4 remembered how he used to like to talk about Down
5 Syndrome and retarded kids and stuff like that. So
6 that was my input on the story.

7 Q. And the reason that you added that detail
8 to the story was because you thought it would give
9 it more credibility?

10 A. Yes.

11 Q. It would make it seem true?

12 A. Yes, with other inmates in the pod, in
13 case they were called to witness or something like
14 that.

15 Q. So that was a deliberate effort on your
16 part to not just tell a lie, but to make the lie
17 seem credible?

18 A. Yes, ma'am.

19 Q. Now, this morning you testified, I think,
20 that it was Mario Rodriguez that came up with the
21 idea about this letter?

22 A. No, he came up with the idea. And he was
23 pushing me to take the blame for it, because he got
24 charged. And he was upset, he was mad that he got
25 charged.

1 Q. So what he wanted to do was to have you
2 tell a story that would not only help himself, but
3 also Mr. Montoya?

4 A. No, I came up with trying to cover for Mr.
5 Montoya.

6 Q. So what part of this story did Mr.
7 Rodriguez come up with?

8 A. None of it.

9 Q. He just came up with the idea?

10 A. He just wanted me to take the blame.

11 Q. And was this something that you discussed
12 with him?

13 A. I had told him afterward, yeah, what I was
14 going to say. And I'm sure Mr. Montoya showed him
15 the letter before he sent it to his lawyer.

16 Q. So you wrote the letter, and then you gave
17 it to Mr. Montoya?

18 A. Yes, ma'am.

19 Q. And after you -- well, before you wrote
20 the letter, did you discuss what should be in the
21 letter with Mr. Rodriguez and Mr. Montoya?

22 A. No, with Mr. Montoya --

23 Q. Did you --

24 A. -- and Mr. Martinez.

25 Q. Okay. I realized I left him out. Did you

1 discuss the content of what should be in the letter
2 with Timothy Martinez?

3 A. Yes.

4 Q. And did he give you suggestions about what
5 you should include in the letter?

6 A. Yes.

7 Q. So this letter that we see, Government
8 756, is really a group effort?

9 A. Yes.

10 Q. And where did these conversations take
11 place about what was going to be in the letter?

12 A. In the rec yard at the Santa Fe
13 Penitentiary, at the North.

14 Q. And it took place in the rec yard while
15 you were pending your state charges?

16 A. Yes, ma'am.

17 Q. And how many weeks -- is January 3 the
18 date that you actually wrote the letter?

19 A. Yes.

20 Q. So that date on there is not a lie?

21 A. No.

22 Q. That's correct?

23 A. Yes. We were --

24 Q. How many weeks did it take for you to come
25 up -- for you guys to come up with what was going to

1 be put in this letter?

2 A. Quite a few, a couple months.

3 Q. So you thought about it for some period of
4 time?

5 A. Yes.

6 Q. And at the time that you wrote this
7 letter, had you had access to the discovery in the
8 state case?

9 A. I had not received my discovery yet.

10 Q. Had you had access to -- had you been
11 shown the video?

12 A. No.

13 Q. So I want to go through -- let me just go
14 back for a second. What you were doing is -- were
15 you trying to cover for what the Government's or the
16 State's case might be against you?

17 A. Yes.

18 Q. And make sure that you covered all the
19 details that you thought they might have in their
20 case against you, Mr. Montoya, and Mr. Rodriguez?

21 A. Yes, ma'am.

22 Q. Okay. So let's look at the very
23 beginning. The first part you say that -- wait a
24 second, I want to go back for a second. After you
25 wrote the letter, did you give it to Jerry Montoya

1 or did you mail it to his lawyer?

2 A. I gave it to Jerry Montoya.

3 Q. And the idea was then that Jerry would
4 give that to his lawyer and --

5 A. Yes.

6 Q. -- that his lawyer would make some sort of
7 effort to get you to potentially be a witness in his
8 case?

9 A. Yes.

10 Q. The first part of the letter where you
11 say, "I, Jerry Armenta, am writing this for Jerry
12 Montoya on my own free will," was that true?

13 A. No.

14 Q. So the letter starts off with a lie?

15 A. Yes.

16 Q. It wasn't under your free will because
17 why?

18 A. Because Mr. Rodriguez was pushing to make
19 me take the blame.

20 Q. And was there something more than pushing
21 that made this letter writing against your will? I
22 mean, were there threats?

23 A. No, not really; like, there wasn't a gun
24 to my head or anything. But, you know, when people
25 like that tell you that you better do something, you

1 do it.

2 Q. "People like that," you mean people like
3 Mario Rodriguez?

4 A. Right, Mario Rodriguez; people that have
5 been in the SNM for a long time, and that are
6 violent.

7 Q. Were you concerned that Mr. Rodriguez
8 would act violently toward you if you didn't write
9 the letter?

10 A. Yes, ma'am.

11 Q. The next sentence that you're "not under
12 the influence of drugs or medications," was that
13 true?

14 A. That's true.

15 Q. And was the sentence after that, "I'm not
16 promised any sort of gifts, money, immunity" -- no,
17 let's just stop there. "Gifts, money, or immunity."
18 Was that part true, that you weren't being promised
19 any gifts, money, or immunity?

20 A. That's true.

21 Q. Then the second part of that sentence,
22 "nor am I being threatened to write this statement"?

23 A. That is not true.

24 Q. And apart from the threats that we just
25 discussed from Mario Rodriguez, were there other

1 threats or are those the only threats?

2 A. Those are the only threats from Mario
3 Rodriguez on the letter.

4 Q. Now, the wording of the next paragraph,
5 the first part of the next paragraph, "On March 7,
6 2014, an incident occurred at Southern New Mexico
7 Correctional Facility that ultimately led to the
8 untimely death of Mr. Javier Molina." Who came up
9 with that?

10 A. I just wrote it. It just came out of my
11 head when I was writing the letter.

12 Q. And that's true; right?

13 A. Yes.

14 Q. There was an incident?

15 A. Yes, ma'am.

16 Q. It's kind of trying to put it in a really
17 delicate way, isn't it?

18 A. Yes, ma'am.

19 Q. I mean, you didn't write: "On March 7,
20 2014, I stabbed Javier Molina to death."

21 A. No.

22 Q. The next part of the letter about you
23 discussed the drugs, that Timothy Martinez promised
24 you drugs and invited you to go into a particular
25 room, a particular cell in blue pod?

1 A. Yes.

2 Q. Which is Mr. Molina's cell; right?

3 A. Yes.

4 Q. And is that part of the letter true?

5 A. No.

6 Q. What about that is false?

7 A. The whole thing. I wasn't promised to go
8 get in there to get drugs at all.

9 Q. And so who came up with that lie?

10 A. That was Timothy's.

11 Q. Timothy's lie?

12 A. Yes.

13 Q. And what was the purpose behind that lie,
14 if you know?

15 A. I believe it was that -- because he was
16 already -- him, Javier, and Mario Rodriguez were
17 going in the room to do Suboxone. So he just said,
18 "Well, we'll still use that, but we'll say that you
19 guys were invited, too."

20 Q. And did Timothy Martinez want some sort of
21 explanation, some sort of innocent explanation for
22 why he was in Javier Molina's room at the time that
23 he was killed, or just before he was killed?

24 A. Say that again.

25 Q. Did Timothy Martinez -- was he looking for

1 you to cover his potential criminal liability in
2 some way?

3 A. He wasn't charged, so there was really no
4 threat towards him.

5 Q. But he wasn't charged at the time, but he
6 was in the room right before you guys stabbed
7 Mr. Molina; right?

8 A. Yes, ma'am.

9 Q. And he had actually choked Mr. Molina?

10 A. Yes, ma'am.

11 Q. And so even though he wasn't charged, he
12 was concerned that he might be charged; right?

13 A. Yeah.

14 Q. So was the point of this lie about going
15 up to Javier Molina's room to use drugs -- was that
16 to maybe help Timothy Martinez's story, so he can
17 have support for why he was up in Mr. Molina's room?

18 A. Yes, ma'am.

19 Q. Kind of corroborates what he wants to use
20 as his explanation; right?

21 A. He was doing up there in the first place,
22 yes.

23 THE COURT: Ms. Jacks, would this be a
24 good place for us to take our afternoon break?

25 MS. JACKS: That's fine.

1 THE COURT: We'll be in recess for about
2 15 minutes. All rise.

3 (The jury left the courtroom.)

4 THE COURT: I would like to have the
5 Government prepare a subpoena for Jason Duff (sic)
6 over at Dona Ana County Detention Center.

7 THE CLERK: Duran.

8 THE COURT: Jason Duran. And let's have
9 him come over and testify as to whether Mr. Perez is
10 taking his insulin or not.

11 MS. ARMIJO: And Your Honor, if he agrees
12 to come over without a subpoena, is that fine?

13 THE COURT: That's fine. Just as long as
14 he comes. I've had some indication that he needs a
15 subpoena.

16 MS. ARMIJO: We'll work on it.

17 THE COURT: So if you'll prepare and get
18 it issued.

19 MR. VILLA: Your Honor, we would ask that
20 he bring the medication administration records or
21 whatever logs they have in connection with that.

22 THE COURT: That's fine. We'll be in
23 recess for about 15 minutes.

24 (The Court stood in recess.)

25 THE COURT: All right. We'll go on the

1 record. Dr. Ehring from the Memorial Hospital is
2 going to call in at 4:45. So when that occurs,
3 I'll, of course, excuse the jury.

4 (The jury entered the courtroom.)

5 THE COURT: All right. I may have to let
6 y'all go back in. I'm going to take a call here in
7 a few minutes. But we'll see if we can get some
8 work here this afternoon before this occurs.

9 Mr. Armenta, I'll remind you you're still
10 under oath.

11 Ms. Jacks.

12 MS. JACKS: We will forge ahead, Your
13 Honor.

14 BY MS. JACKS:

15 Q. Mr. Armenta, before the break I was asking
16 you about this letter, Government's Exhibit 756.
17 And I'm going to pick up where we left off.

18 A. Okay.

19 Q. So I want to move to the third paragraph
20 of the letter that starts with, "Jerry Montoya and I
21 were invited and then entered the room, and were
22 greeted by Timothy Martinez with a paper of the
23 drug, which he gave one each to us." And then you
24 define what paper is. "Paper is drugs wrapped in
25 plastic."

1 A. Yes.

2 Q. Okay. That's true. Paper is drugs
3 wrapped in plastic; right?

4 A. Yes.

5 Q. But is the sentence that precedes it -- is
6 that true?

7 A. No, ma'am, it's not.

8 Q. And tell me what the purpose of that lie
9 was, and who came up with it.

10 A. That was partly Timothy Martinez' and
11 myself.

12 Q. And what is the purpose of it? I guess it
13 sort of moves the story forward?

14 A. For the reason why me and Jerry Montoya
15 went to his room, Javier's room.

16 Q. And I guess you have to have drugs before
17 you can get into a fight over the syringe; right?

18 A. Well, in order to use a syringe, yes,
19 you've got to have something. And most times you
20 have to have something for the person that owns the
21 syringe, which we didn't.

22 Q. Okay. Well, now, you're talking, like, in
23 a general prison situation; right? Like what you're
24 saying is, in prison, if a guy has got a syringe,
25 you bring the drugs and you gave him some of the

1 drugs?

2 A. Yes.

3 Q. As a courtesy for him letting you use the
4 syringe?

5 A. Yes, ma'am.

6 Q. That's prison culture; right?

7 A. Yeah.

8 Q. That's how things run in prison?

9 A. Yes.

10 Q. But specifically, I'm asking you: Why was
11 that lie included in this letter? And I guess what
12 I'm suggesting to you, or what -- in my mind, it
13 seems like you have to have the drugs before you can
14 get into a fight over the syringe; right?

15 A. Well, no, you don't have to have drugs to
16 get into a fight over a syringe.

17 Q. So what was the purpose of including that
18 section of the letter?

19 A. So that way, they would see that me and
20 Mr. Montoya went into the room, and that was the
21 reason why, because we were invited in to receive
22 drugs.

23 Q. So it covers the -- what you expected the
24 video to show was you guys went into the room;
25 that's an explanation for that?

1 A. Yes.

2 Q. Okay. So let's move on to the next
3 sentence after that transaction. "I asked to then
4 use the syringe so I could shoot up. I was
5 immediately answered with a 'Fuck no' and 'Fuck you'
6 by Mr. Javier Molina." Was that the truth?

7 A. No.

8 Q. So who came up with that lie?

9 A. I did.

10 Q. And what was the purpose of putting that
11 lie in this letter?

12 A. So that way, it would start the story
13 about me and him had an altercation.

14 Q. And you wanted to have an altercation,
15 because you wanted to leave it -- or you wanted to
16 at least have some argument that the murder wasn't
17 planned, but that it was spontaneous?

18 A. Yes, ma'am.

19 Q. And that it was a fight?

20 A. Yes.

21 Q. And that it was a fight that was started
22 by the guy that ended up dead?

23 A. Yes, ma'am.

24 Q. The next sentence, "We then began
25 exchanging words, and he very hostilely continued to

1 disrespect me and threaten the lives of myself and
2 my precious little daughter is mentally
3 handicapped." Okay. So is that -- was that the
4 truth?

5 A. No.

6 Q. And who came up with that lie?

7 A. I did.

8 Q. You did?

9 A. Yes, ma'am.

10 Q. And what was the purpose or how did that
11 lie fit into this plan?

12 A. It gave a reason why I acted so rash.

13 Q. And the reason was that he was hostile and
14 was disrespecting you, and then that escalated into
15 threats; right?

16 A. Yes.

17 Q. And you made that up?

18 A. Yes.

19 Q. That didn't happen?

20 A. No.

21 Q. And you made that up to try to help
22 yourself?

23 A. Yes.

24 Q. And it escalated into threats against you;
25 right?

1 A. Yes, ma'am.

2 Q. And threats against your --

3 A. Daughter.

4 Q. -- disabled daughter?

5 A. Yes.

6 Q. And I think you told us you decided to put
7 the disabled daughter thing in there; right?

8 A. Yes.

9 Q. To give it some credibility, and to make
10 it -- that you thought maybe other people could come
11 and say, "Yes, Molina was always talking about
12 Armenta's disabled daughter"?

13 A. Not to my daughter specifically, just Down
14 Syndrome and handicapped, retarded children in
15 general.

16 Q. So that was something he regularly did,
17 and you thought you'd have witnesses that could
18 corroborate that part of the story?

19 A. Yes, ma'am.

20 Q. And I'm not sure if you meant to write --
21 the way that it's written, the way that that
22 sentence is written, it says, "and threaten the
23 lives of myself and my precious little daughter is
24 mentally handicapped." Did you mean that sentence
25 to communicate that he threatened your life and the

1 life of your mentally disabled daughter?

2 A. Not like her life physically, but he was
3 just talking about her bad, in a bad way.

4 Q. The next sentence, "We then got into a
5 physical altercation which Jerry Montoya did not
6 know what was going to happen." Okay, was that the
7 truth?

8 A. No.

9 Q. And who came up with that lie?

10 A. I did.

11 Q. And can you tell me the purpose of that
12 lie?

13 A. So that Mr. Jerry Montoya, when it was
14 time for him to be in court, he would not look
15 guilty. He didn't know anything about what was
16 going on.

17 Q. It was to try to negate the idea that you
18 guys had planned to stab Molina prior to entering
19 the room?

20 A. Yes.

21 Q. So it was meant to communicate that I,
22 meaning you, acted rashly, acted out of anger, and
23 Montoya didn't know what was up?

24 A. Yes.

25 Q. "I didn't even know it was going to

1 happen." That's the next sentence. Was that the
2 truth?

3 A. No.

4 Q. And who came up with that lie?

5 A. I did.

6 Q. And tell me the purpose of that lie.

7 A. Because I didn't go in there with
8 intentions to hurt Mr. Molina. It just was a
9 spontaneous reaction. And I didn't even know what
10 was going to come of what happened in the room.

11 Q. So that goes back to the idea that this
12 letter is intended to help you as well as Mr.
13 Rodriguez, Mr. Montoya, and Mr. Martinez?

14 A. It's intended to help all parties.

15 Q. "I acted clearly out of instinct for I
16 felt that it or my life was in clear and present
17 danger." That's the next sentence. So was that the
18 truth?

19 A. No.

20 Q. Who came up with that lie?

21 A. I did.

22 Q. And what was the purpose of that lie?

23 A. So that I had a reason to react, that was
24 my reason to react the way I did.

25 Q. And that would hopefully work to your

1 benefit, in helping you get some reduced crime
2 rather than murder?

3 A. Yes.

4 Q. Now, the next paragraph, first sentence,
5 you say, "During this incident, Jerry Montoya did
6 not attack Mr. Javier Molina, or was he ever in
7 possession of a shank." Is that the truth?

8 A. No, it's not.

9 Q. And so who came up with that lie?

10 A. I did.

11 Q. Okay. Did you discuss it with Jerry
12 Montoya?

13 A. Yes.

14 Q. Did you discuss it with Mario Rodriguez?

15 A. No.

16 Q. Did you discuss it with Timothy Martinez?

17 A. Yes.

18 Q. So it was you, with help from Timothy
19 Martinez and Jerry Montoya?

20 A. Yes.

21 Q. And what was the purpose of that lie?

22 A. The purpose of that lie was so that the
23 judge or the Court would believe that Mr. Montoya
24 didn't have anything on him.

25 Q. So that it would imply, I guess, that the

1 only person that stabbed Mr. Molina was you?

2 A. Yes.

3 Q. And Jerry Montoya didn't even have a
4 weapon?

5 A. Yes.

6 Q. Okay. The next sentence, "The incident in
7 the room was between myself and the deceased"?

8 A. That was my lie.

9 Q. And what was the purpose of that?

10 A. I guess there is a word missing, but yeah,
11 I wrote that because the incident that did happen in
12 the room was between me and Mr. Molina, not anyone
13 else.

14 Q. And that lie is meant to try to get
15 everybody else out of it?

16 A. Yes.

17 Q. Mr. Rodriguez, Mr. Martinez, and Mr.
18 Montoya?

19 A. Yes.

20 Q. And did you discuss that sentence with all
21 of the people that -- did you discuss that sentence
22 with Mr. Rodriguez, Mr. Martinez, and Mr. Montoya?

23 A. I didn't discuss none of this letter with
24 Mr. Rodriguez. The only conversation that we had
25 was when he told me that I needed to take the blame

1 for getting him charged.

2 Q. Okay. So that's the only input he really
3 had?

4 A. Yes.

5 Q. And then the details of what went into
6 this letter were cooked up between you, Mr. Montoya,
7 and Mr. Martinez?

8 A. Yes.

9 Q. Okay. Before you gave the letter to Mr.
10 Montoya to give to his lawyer, did you let Mr.
11 Rodriguez review it?

12 A. No.

13 Q. Did you tell him what you had put in it,
14 that you put a sentence in there that said "The
15 incident in the room was between myself and the
16 deceased"?

17 A. Yeah, I gave him a little rundown of a few
18 of the sentences that I said, what it said,
19 generally what it was.

20 Q. And the next sentence is along those same
21 lines: "Jerry Montoya nor anyone else have any
22 involvement with the incident that happened in room
23 105, B pod, on the day of March 7, 2014."

24 A. Yes, ma'am.

25 Q. Just communicating the same thing?

1 A. Yes, ma'am.

2 Q. But specifically naming Jerry Montoya?

3 A. Yes, because he was the only other charged
4 at the time.

5 Q. So is it fair to say that this letter is a
6 collaboration between you, Timothy Martinez, and
7 Jerry Montoya?

8 A. Yes.

9 Q. A collaborative effort?

10 A. Yes.

11 Q. And I think you said it took months to
12 come up with this?

13 A. Yes.

14 Q. So it was something that you worked on for
15 a long period of time?

16 A. We discussed it a few times.

17 Q. And something that you thought about quite
18 a bit before you actually decided what to write?

19 A. Yes.

20 MR. JEWKES: Your Honor, may we please ask
21 the witness to speak up?

22 THE COURT: If you'll just try to be a
23 little louder, Mr. Armenta.

24 THE WITNESS: Okay. Sorry about that.

25

1 BY MS. JACKS:

2 Q. Now, then, we had the very last paragraph,
3 and this is where you say that, "I swear that this
4 written statement is true and honest to the written
5 facts to the best of my knowledge."

6 Let me just stop there. Was that the
7 truth?

8 A. No.

9 Q. Who came up with that lie?

10 A. I put up the whole paragraph. That's
11 mine.

12 Q. And why did you put that in there?

13 A. So that way it would be believable.

14 Q. So that if somebody read this, and they
15 see that --

16 THE COURT: Ms. Jacks, I need to take this
17 call. So --

18 MS. JACKS: Fine.

19 THE COURT: We'll be in recess for a few
20 minutes. All rise.

21 (The jury left the courtroom.)

22 THE COURT: All right. Be seated.

23 MR. VILLA: Your Honor, could we ask that
24 the witness be excused for this?

25 THE COURT: Yes. Why don't you take the

1 witness out as well?

2 (Testimony of another witness occurs.)

3 THE COURT: All right. Everyone be
4 seated.

5 All right. Mr. Armenta, I'll remind you
6 you're still under oath.

7 Ms. Jacks, if you wish to continue your
8 cross-examination of Mr. Armenta, you may do so at
9 this time.

10 MS. JACKS: Thank you. I will.

11 CROSS-EXAMINATION

12 BY MS. JACKS:

13 Q. Mr. Armenta, before we were interrupted,
14 we were talking about the last paragraph of this
15 letter which is Government's Exhibit 756. So I want
16 to -- I guess we were at the point where I was
17 asking you, I think, about what was the purpose of
18 putting in there that you're swearing that "the
19 statement is true and honest to the best of my
20 knowledge," when that was actually false?

21 A. So that way it would be believable.

22 Q. So I think where I was going before the
23 recess was that you're thinking about how somebody
24 else might react to this letter?

25 A. Yes.

1 Q. And you're thinking that if you put in
2 there that "it's true and honest to the best of my
3 knowledge," that that sounds like something that
4 you're almost attesting to under oath; right?

5 A. Yes.

6 Q. And so you're trying to give the reader, I
7 guess, a false sense of comfort that the statement
8 is actually true?

9 A. Yes. I'm trying to make it look as pretty
10 as I can.

11 Q. The next part of that paragraph -- oh, I
12 didn't read that whole sentence. So "I swear that
13 this written statement is true and honest to the
14 written facts to the best of my knowledge and
15 recollection of the actions on that day."

16 So the discussion we just had applies to
17 that whole sentence; right?

18 A. Yes, ma'am.

19 Q. And then you put, "I will swear to this
20 written statement in open court and under oath."

21 A. Yes, ma'am.

22 Q. And basically -- well, were you prepared
23 to swear to the contents of this statement in court
24 and under oath?

25 A. I was.

1 Q. And you understand that the oath you take
2 when you're sitting on the witness stand is an oath
3 to tell the truth?

4 A. Yes, ma'am.

5 Q. Punishable by penalty of perjury?

6 A. Yes, ma'am.

7 Q. So you included this in the letter even
8 though the letter was full of lies; right?

9 A. Yes.

10 Q. And you included it -- why did you include
11 that particular sentence, that you would swear to it
12 in court?

13 A. So that they would believe me and I could
14 get Jerry Montoya off, and I would take the blame
15 and I'd get the full blame or whatever.

16 Q. And you'd get a lesser charge?

17 A. Well, if that's what it came down to,
18 yeah.

19 Q. And Mr. Rodriguez and Mr. Montoya and Mr.
20 Martinez would all go home?

21 A. Yes.

22 Q. Now, with respect to that -- swearing,
23 that whole paragraph about swearing that it's true
24 and honest and saying that you would take an oath to
25 tell the truth and recite this litany of lies, whose

1 idea was it to put that in the letter?

2 A. Mine. I wrote it.

3 Q. It was your --

4 A. I wrote the letter. Most of what's on the
5 letter was written by me.

6 Q. It's all in your handwriting; right?

7 A. Yes.

8 Q. But you collaborated with other people --

9 A. Yes.

10 Q. -- in terms of the content of the letter?

11 A. Yes.

12 Q. And so what I'm asking is, I guess, who
13 did you talk with about -- with regard to making
14 this sort of attestation that this is true and
15 saying, "I'll take an oath to tell the truth and
16 repeat this in court"?

17 A. Nobody. I just put that.

18 Q. So you didn't discuss that aspect of the
19 letter with Mr. Montoya or Mr. Rodriguez or Mr.
20 Martinez?

21 A. No.

22 Q. Once this letter was done, once you wrote
23 it, you gave to it Mr. Montoya?

24 A. Yes, ma'am.

25 Q. And at some point, did the letter have its

1 intended effect? Did you find out that Mr.
2 Montoya's lawyer wanted to speak with you?

3 A. Yes. A few months later, I was told that
4 his attorney was putting some kind of motion in the
5 court to have me transported to Dona Ana County
6 Detention Center so I could be interviewed by his
7 attorney.

8 Q. And that would be to be interviewed and
9 then potentially to testify to these false facts in
10 a trial?

11 A. Yes.

12 Q. So I want to move on. Because at some
13 point after you sent this letter, you came up
14 with -- or your intent changed, right, and you came
15 up with a different story?

16 A. I came up with the truth, yes.

17 Q. Well, what you say is the truth; right?

18 MR. CASTELLANO: Objection, Your Honor.
19 Argumentative.

20 THE COURT: Don't argue with the witness.
21 Just ask questions.

22 BY MS. JACKS:

23 Q. Mr. Armenta, you said that Government's
24 Exhibit 756 was the truth?

25 A. Yeah.

1 Q. And you said that you would come to court
2 and take an oath to tell the truth, and sit in a
3 witness stand, like you're sitting in now, and say
4 that's the truth; right?

5 A. Yes, ma'am.

6 Q. And yet you just told us this Exhibit 756
7 is full of lies?

8 A. I was just trying to be an honorable
9 brother of the SNM, and trying to get them off.
10 That's why I --

11 Q. The bottom line is that you very -- in
12 this particular letter that you wrote, that's full
13 of lies, you had no problem saying it was true;
14 right?

15 A. Yes.

16 Q. And you had no problem saying, "I'll come
17 to court and say that"?

18 A. Right.

19 Q. And it wasn't just your lies; it was lies
20 that you worked on and thought about and discussed
21 with other people?

22 A. Yes, ma'am.

23 Q. I want to show you what's been marked
24 Exhibit 757. And this is the next letter. This is
25 the letter that you wrote sometime between the

1 letter we just saw and the time that you debriefed
2 with the United States Attorney's Office?

3 A. Yes.

4 Q. Do you know approximately when you wrote
5 this letter?

6 A. Well, it would have to be after September
7 1st, when I was interviewed by Mr. Montoya's
8 attorney.

9 Q. And this was a letter to Jerry Montoya to
10 tell him that there was a change of plans; is that
11 right?

12 A. Yes.

13 Q. Can you read that letter on the screen?
14 Or do you want me to bring it up?

15 A. I can read it.

16 Q. Will you read it out loud, please? And
17 I'll turn the page when you get to the bottom.

18 A. "Jerry, Number 1 stunna. By the time you
19 receive this letter, you will already know what I
20 did. I love you, bro, on the real. But I had to
21 tell the truth about how it all went down, from you
22 putting up your hands when Blue handed you your
23 piece, to the threats on your life and when I told
24 you try not to kill him."

25 Q. Can I stop you right there? Because I

1 have a question. So in writing this letter, are you
2 trying to communicate something to Mr. Montoya about
3 what you told the DA?

4 A. No.

5 Q. Are you trying to communicate something to
6 him about what you told the U.S. Attorney or other
7 law enforcement?

8 A. No, ma'am.

9 Q. Is there a reason why you -- why the "I
10 told you" is underlined, when you say, "I told you
11 try not to kill him, just stab him in places where
12 it won't hit anything vital to sustain life." Is
13 there a reason "I told you" is underlined?

14 A. No, not to my knowledge. I do that a lot
15 in my letters.

16 Q. Well, why do people underline things in
17 writings?

18 A. Mostly to, like, make a point to the
19 person to see it.

20 Q. Right, to sort of highlight that
21 particular thing.

22 A. Yes.

23 Q. And the intended recipient of this letter
24 was Jerry Montoya; right?

25 A. Yes, ma'am.

1 Q. So did you underline the "I told you" to
2 highlight that to him and make sure that he focused
3 on what it is that you're saying you told him?

4 A. I did it so he can remember.

5 Q. So that he could remember and say you told
6 him that; right?

7 A. Yes.

8 Q. Because the purpose of this letter is
9 trying to say, you know, maybe you should sign up to
10 be a Government witness, too; right?

11 A. Possibly. I wanted him to get out of it.

12 Q. Right. And you wanted to communicate to
13 him in some -- and you weren't in a position where
14 you could talk with him or meet with him on the
15 yard; right?

16 A. I was in a different facility.

17 Q. You were separated. So you wanted to
18 communicate to him or give him some information
19 about what it was that you were then telling law
20 enforcement; right?

21 A. I just told him what I was planning on
22 doing.

23 Q. Okay. Did you also -- just before that, I
24 think you said, "I told" -- let me just go back.
25 "But I had to tell the truth about how it all went

1 down. From you picking up your hands when Blue
2 handed you your piece, to the threats of your life
3 and mine"?

4 A. Yes.

5 Q. Was that sentence intended to communicate
6 to Mr. Montoya that in your story that you were now
7 telling law enforcement, you claimed that he picked
8 up his hands and tried not to accept the shank from
9 Blue prior to the Molina stabbing?

10 A. It wasn't about him accepting anything.
11 He thought that Mario Rodriguez was going in there
12 to stab him.

13 Q. But in this letter, are you trying to tell
14 Mr. Montoya --

15 A. No, I'm --

16 Q. -- that you're telling that fact to law
17 enforcement?

18 A. Yeah, from the beginning, all the way to
19 the end, so that he knows everything that I said.

20 Q. Right. So that is the point of this
21 letter, to work in everything that you said so that
22 he knows what the story is?

23 A. No, that way, he knows that I said
24 everything from the beginning to the end of what
25 happened that day, on March 7.

1 Q. I'm going to have you pick up from where
2 we just ended. Why don't you start with the "I told
3 you," start with the underlined portion?

4 A. "I told you try not to kill him. Just
5 stab him in places where it won't hit anything vital
6 to sustain life, all the way till our doors closed."

7 Q. May I stop you there, and ask you what
8 that means?

9 A. "All the way till our doors closed," till
10 the end of everything that happened that day. From
11 the beginning to the end, like I said.

12 Q. So you can continue after "closed."

13 A. "Look, man, call me a pussy, a rat, a
14 punk. I don't give a fuck. I'm not going to let
15 these sorry fucks define me and my next 15 to 20
16 years. I am a dad first, and that means more to me
17 than this fake ass onda. If you want, stay there,
18 by all means, do what you do. But I know you. You
19 want to make things better with you and your
20 daughter, Terri, your grandma, and mom."

21 Q. Let me just stop you right there. When
22 you refer to your daughter, Terri, grandma, and mom,
23 are those people that Jerry Montoya talked to you
24 about?

25 A. Yeah.

1 Q. Members of his family?

2 A. Yes, ma'am.

3 Q. And so what you're telling him is that
4 you're doing what you're doing so that you can go
5 back to being a dad; right?

6 A. Yes, ma'am.

7 Q. And so that he ought to think about
8 getting back to his family, too?

9 A. Yeah, to do the right thing, to go home.

10 Q. And that was your state of mind when you
11 wrote this letter that, if you said what the
12 Government -- if you said what the Government wanted
13 you to say, if you said that this was an SNM hit,
14 that you would go home, and that maybe Jerry would
15 go home?

16 A. The Government didn't tell me what to say.
17 This is what the truth is, what I told them.

18 Q. In this letter you're thinking that, if
19 you are -- if you don't work with law enforcement,
20 you're going to be facing 15 to 20 years?

21 A. Well, yeah, obviously, if you don't do the
22 right thing, you're going to go down with them .

23 Q. Well, a murder carries a life sentence,
24 doesn't it?

25 A. Yeah.

1 Q. So I'm just wondering why, at the time you
2 wrote this letter, were you thinking that that was
3 sort of what your exposure was, 15 to 20 years?

4 A. I just put it, 15 to 20 years. They're
5 not going to control my next 15 to 20 years.

6 Q. So what you thought was that by becoming a
7 witness for the Government, you would get something
8 less than 15 to 20 years?

9 A. No.

10 Q. Oh, you never thought that?

11 A. No.

12 Q. I'm just not understanding the
13 decision-making process. If you're going to get 15
14 to 20 years if you don't do anything, and just take
15 what's coming, and you're going to get 15 to 20
16 years if you're a Government witness, how do you
17 choose to become a Government witness?

18 A. I knew I was going to get some time. I
19 know I'm still going to get some time. I'm not
20 going to get a life sentence.

21 Q. I'm not -- well, that's really up to Judge
22 Browning; right?

23 A. Right.

24 Q. I mean, that's what you told us earlier
25 today?

1 A. Yes, ma'am.

2 Q. So Judge Browning very easily could give
3 you a life sentence?

4 A. Yes.

5 Q. But my point is, I guess, I'm asking --
6 I'm not asking what your current state of mind is.
7 I'm asking what your state of mind is at the time
8 you wrote this letter.

9 A. I don't know. I was just trying to get
10 him to do the right thing.

11 Q. But in terms of the punishment, you
12 thought if you didn't become a Government witness,
13 you were looking at 15 to 20 years. So you must
14 have thought that you were going to get less than
15 that if you worked with the Government.

16 A. No. I said that probably, more likely,
17 because I already just spoke to his attorney. And
18 Mr. Dougherty was there. And I was expecting --
19 hoping that I would get a deal.

20 Q. That's what I was asking. And so what was
21 the deal that you were hoping to get?

22 A. Anything better than life.

23 Q. At that point, after the meeting with
24 Mr. Dougherty, you ended up with a reduced charge of
25 involuntary manslaughter, right, as part of the plea

1 bargain?

2 A. Yeah, about three months later.

3 Q. And a sentence of 18 months in prison?

4 A. Yes.

5 Q. A year and a half?

6 A. Yes, ma'am.

7 Q. Less than what you did for your two counts
8 of contributing to the delinquency of a minor?

9 A. Yes, ma'am.

10 Q. All right. Let's keep going. So we are
11 just after Terri, grandma, and mom.

12 A. "Is this more important to you than them?
13 They got us sick with the story we said or not we
14 were doing. That's why I had to make a move."

15 Q. Let me stop you there. So what does it
16 mean you said "they got us sick with the story we
17 said"?

18 A. That they knew we were lying.

19 Q. And are you referring to the story that
20 was in the letter that we were looking at before,
21 Exhibit 756?

22 A. Yes, ma'am.

23 Q. And "got us sick" means --

24 A. They got us.

25 Q. They really got us, like got us?

1 A. They got us. It's over. They got us.
2 It's over. It's done.

3 Q. And then what was the other thing that you
4 said? Oh, "they got us sick with the story we said
5 or not. We're done. That's why I had to make a
6 move."

7 A. Yes.

8 Q. And is that communicating to Mr. Montoya:
9 I'm having to change things up because we got busted
10 with the story we told?

11 A. I just -- that's my intention, was to tell
12 them that the truth needs to come out, because the
13 lie is not going to get us anywhere.

14 Q. Okay. Let's keep going starting with
15 "Red."

16 A. "Red's on the level tambien. Fuck it,
17 dude. It's my life, not the onda's."

18 Q. Let me stop you right there. What does
19 that mean when you said "Red"?

20 A. "Red is on the level." That means that he
21 had made a statement prior to my own.

22 Q. Okay. So in this part of the letter
23 you're telling Jerry Montoya that Timothy Martinez
24 has made some sort of statement?

25 A. Yes.

1 Q. And are you implying -- or is it meant to
2 imply that he made some sort of statement that's
3 incriminating against Jerry Montoya?

4 A. Yes, against me, Montoya, and the story
5 that we fabricated.

6 Q. Okay. And how did you find -- at the time
7 of this letter, how did you find out that Timothy
8 Martinez had made a statement?

9 A. Because by that time, I had gotten my
10 discovery from my attorney.

11 Q. And you knew that Timothy Martinez was
12 saying things about you and Jerry?

13 A. Yes.

14 Q. Jerry Montoya?

15 A. Yes, ma'am.

16 THE COURT: Ms. Jacks, would this be a
17 good place for us to call it a week?

18 MS. JACKS: That would be nice.

19 THE COURT: Let me give you these
20 instructions. I refrained doing it this week, but
21 before we take our weekend break, I want to remind
22 you of a few things that are especially important.

23 Until the trial is completed, you're not
24 to discuss the case with anyone, whether it's
25 members of trial, people involved in the trial, or

1 anyone else, and that includes your fellow jurors.
2 If anyone approaches and tries to discuss the trial
3 with you, please let me know immediately.

4 Don't read or listen to any news reports
5 of the trial. Again, don't go home and get on the
6 internet for purposes of this case in any way.

7 And finally, remember that you must not
8 talk about anything with any person who is involved
9 in the trial, even if it doesn't have anything to do
10 with the trial.

11 If you need to speak with me, give a note
12 to one of the Court Security Officers, Ms.
13 Standridge. I've kept my promise not to repeat
14 these all the time, but do keep them in mind every
15 time we take a break.

16 I know a lot of you are traveling. I'm
17 going to do a little bit of it myself. Wednesday
18 was a big day in my family. My dad turned 84, but
19 my son was defending his dissertation, and I'm proud
20 to report that he defended it successfully. So I'm
21 going to go back to Albuquerque and fly to New York
22 and buy him a steak. He always goes to the most
23 expensive restaurants. So if I'm broke on Monday,
24 y'all may have to help me out.

25 But y'all have a safe trip. The weather

1 looks good for me, so I expect it for you, as well.
2 Y'all have a good weekend and get some rest. Thank
3 you very much. All rise.

4 (The jury left the courtroom.)

5 THE COURT: If y'all will hang around just
6 a second. There should be a clean set of jury
7 instructions. I'm taking one with me this weekend.
8 I'm getting close to having a set that I now need to
9 integrate the RICO stuff, the VICAR stuff, so I'm
10 working on that. We're getting there. And if
11 you'll just wait a second, I'll make sure that my
12 clerk, Ms. Standridge, gets those to you so you're
13 not delayed.

14 MS. DUNCAN: Your Honor, would you
15 admonish the witness, please?

16 THE COURT: Yes. Mr. Armenta, you're on
17 the stand, so don't talk to anybody about your
18 testimony. Okay? Don't talk to any other people in
19 transport or in the detention facility or anything
20 like that.

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. Have a good
23 weekend.

24 MR. CASTELLANO: Your Honor, while we're
25 waiting, it appears as if the defense has the

1 forensic results back from the tablets. And if so,
2 we're asking for disclosure. Those were supposed to
3 be disclosed once the forensic analysis was done.

4 THE COURT: Any problem with that?

5 MR. LOWRY: That's fine.

6 THE COURT: All right. Mr. Lowry says
7 that will be fine, so he'll get that to you.

8 All right. Y'all have a good weekend.
9 Get some rest. I'm going to go check on these jury
10 instructions.

1 Monday, February 12, 2018

2 THE COURT: All right. Mr. Armenta, I'll
3 remind you that you're still under oath.

4 THE WITNESS: Okay.

5 THE COURT: Ms. Jacks, if you wish to
6 continue your cross-examination, you may do so.

7 MS. JACKS: I do.

8 THE COURT: Ms. Jacks. You're sounding
9 better today.

10 MS. JACKS: I'm much better.

11 THE COURT: You sound better. I'm glad
12 you're better.

13 Ms. Jacks.

14 JERRY RAY ARMENTA,
15 after having been previously duly sworn under
16 oath, was questioned, and continued testifying
17 as follows:

18 CONTINUED CROSS-EXAMINATION

19 BY MS. JACKS:

20 Q. All right. Mr. Armenta, I want to pick up
21 where we left off, so hopefully my notes are good
22 enough so I can remember where we were. And I think
23 when we stopped on Friday, we were talking about
24 this letter, Exhibit 757, which was the letter that
25 you wrote to Mr. Montoya that never actually made it

1 to him.

2 A. Yes.

3 Q. And you recall this letter; right?

4 A. Yes, ma'am.

5 Q. And I think when we stopped on Friday, we
6 were almost all the way through with the first page.
7 You were talking about this section right here about
8 Red?

9 A. Yes.

10 Q. Do you remember that?

11 A. Yes, ma'am.

12 Q. And you told us that what you were
13 communicating and what you were intending to
14 communicate to Mr. Montoya with respect to Red was
15 that you were telling him that Red was a Government
16 witness?

17 A. Yeah.

18 Q. And that Red was providing some sort of
19 information against you and against Mr. Montoya to
20 the Government?

21 A. He had made a statement, yeah.

22 Q. I want to go on. So let's pick up on, I
23 think, where we're starting or where we're going to
24 pick up now and you were reading this, starting
25 with, "Fuck it, dude." So let's keep going.

1 A. From "Fuck it, dude"?

2 Q. Yeah.

3 A. "Fuck it, dude. It's my life, not the
4 onda's. So with respect, I love you and I wish you
5 the best in your decisions you make, and bless and
6 yours. Oh, and Cheryl Ann passed away in
7 complications in surgery."

8 Q. Let me just stop you there. Okay?
9 Because last week I think you testified that this
10 was a mistake; that you didn't mean to say this
11 about Cheryl Ann.

12 A. No, I said it, but I missed a word there,
13 misplaced a word there.

14 Q. The word being what, Cheryl Ann had not
15 passed away?

16 A. Almost.

17 Q. She almost passed away.

18 A. Cheryl Ann almost passed away.

19 Q. Are you talking about Cheryl Ann, your
20 daughter, or Cheryl Ann, your wife?

21 A. My daughter.

22 Q. Let's keep going with that. So you're
23 saying you missed a word in that sentence.

24 A. Yes, ma'am.

25 Q. Let's keep on reading about what else you

1 said about Cheryl Ann.

2 A. "If you hate me, fine, but my hita is gone
3 forever."

4 Q. Let me stop through. What is a hita?

5 A. My daughter in Spanish.

6 Q. So here you're talking about your daughter
7 being dead; right?

8 A. Yeah.

9 Q. That's no mistake, is it?

10 A. No, I guess not.

11 Q. Let's keep going.

12 A. "And if it weren't for the amor of this
13 onda, I would have had some time with her.

14 Q. Okay. That again references the fact that
15 you're trying to tell Mr. Montoya that your daughter
16 is dead?

17 A. Yeah.

18 Q. And is it your testimony that that's a
19 mistake, too?

20 A. That's a mistake, because she was actually
21 in a coma. My mom had told me that she was in a
22 coma, and she was pretty close to death.

23 Q. Were you trying to tell Mr. Montoya that
24 your daughter died so that he would have some sort
25 of sympathy for you?

1 A. No. I was letting him know what was going
2 on, because I let him know about everything that was
3 going on with my family.

4 Q. Well, you lied to him, didn't you, in this
5 letter?

6 A. About what?

7 Q. About your daughter being dead.

8 A. It was a mistake. I said she almost
9 passed away.

10 Q. Well, it's a mistake that you made three
11 or four times in writing the letter, isn't it?

12 A. Yeah.

13 Q. And you're sticking by that testimony
14 under oath that that's a mistake?

15 A. It was a mistake.

16 Q. Let's read the rest of the letter.

17 A. "Think about what's more important to you,
18 dog. I love you, man. My family means more to me.
19 There is no future for the onda. Save yourself,
20 dude, for real. Jerry Armenta."

21 Q. And how did you sign it?

22 A. Jerry Ray Armenta.

23 Q. What's your Stunna man?

24 A. It's a little word he used to call me
25 because of the music we listened to.

1 Q. And then -- well, let me just go back for
2 a second. You talked about your "family means more
3 to me. There is no future for the onda," meaning
4 your family means more to you; there is no future
5 for the gang?

6 A. There is no future for me in the gang.

7 Q. Well, there is no future for you and your
8 family; right?

9 A. Well, that's to be determined.

10 Q. Well, we discussed that last week.

11 A. That's to be determined.

12 Q. Why would you be misrepresenting the
13 situation with your daughter and your family to Mr.
14 Montoya in this letter?

15 A. To let him know I've had enough of what is
16 going on in the onda, and that I'm not going to let
17 the onda come first in front of my family anymore.

18 Q. Did you think if you told him those
19 things, that he would then back your story that
20 you're communicating to him in this letter?

21 A. No, I just told him that I had enough,
22 that this almost happened to my daughter. Then for
23 this onda I almost missed out on her life. I still
24 am, but she's still alive, though, now.

25 Q. Well, you missed out on her life --

1 A. A lot.

2 Q. -- not because of the gang, but because of
3 your conduct with your stepdaughter; right?

4 A. No.

5 Q. How did you -- what are the two little
6 things at the end of the letter?

7 A. "Am I going to go down for some bullshit?
8 Nope."

9 Q. What does that refer to? The murder of
10 Javier Molina?

11 A. Yes, and the onda.

12 Q. So you think that's bullshit?

13 A. Yeah, because it is bullshit, what
14 happened.

15 Q. And then?

16 A. And then, "Am I gonna get it right, home
17 with the fam? Yup."

18 Q. So again, talking about how you're going
19 to get out of prison or get out of jail and end up
20 back with your family?

21 A. Yep.

22 Q. Your family that includes the
23 14-year-old --

24 A. No.

25 Q. -- that you sexually abused?

1 A. No. That family, that part, is already
2 done and over with.

3 Q. Now, I think, if I heard you right on
4 Friday, when the Government was asking you
5 questions, you said that this letter, this Exhibit
6 757 -- I'm just going to put it back up so it's
7 clear what we're talking about -- was a letter that
8 was the result of your communication with somebody
9 who really cared. Do you recall that testimony?

10 A. Somebody who really cared.

11 Q. Right. At the time that you wrote this
12 letter -- this was sometime in the spring of 2015?

13 A. No, this was in September of 2015.

14 Q. At the time that you wrote this letter,
15 prior to writing this letter, had someone approached
16 you and talked to you about getting back to your
17 family?

18 A. That would be in the winter of 2015,
19 February.

20 Q. And who was that?

21 A. Eric Duran.

22 Q. Oh, and where was it? Eric Duran is a
23 Government witness; right?

24 A. Yes, ma'am.

25 Q. And where was it that you encountered Eric

1 Duran?

2 A. It was in 3-A, unit 3-A, R pod in Santa Fe
3 at the North facility.

4 Q. Okay. So at PNM North, unit 3-A, R pod?

5 A. Yes, ma'am. Yes.

6 Q. He was an inmate that was housed near you?

7 A. We were neighbors.

8 Q. And what was it -- well, I think when
9 we -- when you testified on Friday, you made some
10 comment that you spoke with Duran for a couple of
11 weeks. Is that accurate?

12 A. We talked every day. We talked end on end
13 for months, every day.

14 Q. And during those conversations -- the
15 results of your conversations with Duran is you
16 asked him to set up a meeting with you and the
17 Security Threat Intelligence Unit?

18 A. No, I did not ask him anything like that.

19 Q. Okay. Well, was there a meeting that you
20 requested with the Security Threat Intelligence
21 Unit?

22 A. He told me that he could send me in the
23 right direction to talk to some people. And yes,
24 there was a little two-, three-minute questions that
25 they asked know see if I was real about talking to

1 the State Police and the district attorney, and I
2 said yes. And the officers.

3 Q. Answer the question, Mr. Armenta. On
4 Friday I thought that you said that after you spoke
5 with Duran for this period of weeks, that Duran made
6 a phone call?

7 A. Well, he made a phone call or however he
8 contacted them to let them know that, yes, I was
9 ready to go speak.

10 Q. Okay. Did Duran have a phone in his cell
11 at PNM North?

12 A. He had a direct phone number that we have
13 on the phone, the regular prison phones and you can
14 call the STIU off them phones.

15 Q. Okay. So he actually used the jail phone,
16 the PNM phone, to call somebody in the Security
17 Threat Intelligence Unit and tell them that you
18 wanted to set up a meeting with them?

19 A. Yes, that I wanted to speak with them.

20 Q. And prior to making that call, had Duran
21 been encouraging you to speak with the Security
22 Threat Intelligence Unit?

23 A. No, not encouraging me. He asked me a
24 question about what was more important to me, and I
25 told him, and he said, "Well, what if I can help

1 you?"

2 And I said, "What do you mean?"

3 And he goes, "Well, do you want to do the
4 right things?"

5 And when he said that, I said, "Yeah, I
6 do. I need to get away from this. I need to get
7 out of here."

8 And he said he'll make the call for me,
9 talk to the right people.

10 Q. Now, prior to making the call, had
11 Mr. Duran discussed with you the fact that he was
12 expecting to receive monetary benefits from the
13 Government by being a Government witness?

14 A. I knew nothing about that at that point.

15 Q. Okay. Then you just need to answer the
16 question. The answer is no?

17 A. No, I didn't know.

18 Q. Okay. Prior to making the call, had he
19 talked to you about the fact that he was expecting
20 improved conditions of confinement by becoming a
21 Government witness? For example, having contact
22 visits with his family?

23 A. No.

24 Q. Or getting more phone calls?

25 A. No.

1 Q. Or getting better food?

2 A. No.

3 Q. Had he talked to you about the fact that
4 he expected to get time shaved off of his state
5 sentence that he was doing?

6 A. No.

7 Q. Had he talked to you about other help that
8 he might receive in terms of avoiding criminal
9 consequences of his behavior?

10 A. No.

11 Q. On Friday -- well, had he talked to you
12 about any benefits that he was supposed to get or
13 receive as a benefit -- as a result of being a
14 Government witness?

15 A. No. When all this started, no, he didn't
16 tell me anything about that. I didn't know anything
17 he was doing.

18 Q. Okay. And I don't want to just limit it
19 to when all this started, because you've even said
20 that you talked with Duran over a period of weeks;
21 right?

22 A. Um-hum.

23 Q. Is that yes?

24 A. Oh, after the indictment?

25 Q. So my question -- no, my question is:

1 During this time that you were talking to Duran
2 prior to him placing the call to the Security Threat
3 Intelligence Unit, was there any discussion about
4 any sort of positive benefits that he expected to
5 flow towards him?

6 A. No, none at all.

7 Q. Now, on Friday -- and I don't want to
8 misquote you -- but I have in my notes that when
9 Duran made this phone call, the purpose of the call
10 was to set up a meeting with the Security Threat
11 Intelligence Unit to chat -- for you to chat with
12 them to see if he was -- and this is the quote I
13 wrote down -- "to see if he was serious about what
14 he offered." Do you recall that testimony on
15 Friday?

16 A. If Eric Duran was serious about what he
17 offered?

18 Q. Well, the way I interpreted the statement
19 was to see if Eric Duran was telling you the truth
20 about what he was being offered.

21 A. I don't think, no.

22 Q. What did you mean by the fact that this
23 meeting with STIU was to see if somebody was serious
24 about what he offered?

25 A. I think you got it misinformed. I think

1 he called and let them know that I was serious about
2 what I wanted to do.

3 Q. I mean, it's possible I'll have to go back
4 and read the testimony, but your testimony today is
5 that when Duran contacted STIU and you went into
6 that meeting with STIU, it wasn't about seeing what
7 sort of benefits might come your way if you became a
8 Government witness?

9 A. No.

10 Q. Is it fair to say that after your
11 interaction with Duran, that's when you came up with
12 the version of events that you've testified to in
13 Court here regarding the Molina homicide?

14 A. Yeah, yes.

15 Q. And in that version of events, you're
16 claiming that it was Mr. Sanchez that made you kill
17 Mr. Molina?

18 A. Yes, ma'am.

19 Q. Now, on Friday -- I want to talk a little
20 bit about what you told us about the events of March
21 6 and 7, 2014; so what you've testified here in
22 court about regarding the day before and the day of
23 the Molina homicide.

24 A. Yes, ma'am.

25 Q. Okay. So Friday -- and the first thing I

1 want to ask you about is about what happened on
2 March 6 when Lupe Urquizo and Mauricio Varela first
3 arrived at Southern New Mexico Correctional
4 Facility. Okay?

5 A. Yes.

6 Q. And what I recall you saying last week was
7 that you saw those two, Urquizo, Varela and a guy
8 that you knew as Cartoon come through the sally port
9 into unit 1-A. Do you remember that testimony?

10 A. Yes, ma'am.

11 Q. And that I think you said Blue and Red ran
12 to the door between the pods, asking about
13 paperwork. "Do you have it? Let me see it."

14 A. I didn't hear them asking about paperwork
15 or nothing. They just walked to the door and they
16 started talking with them. I heard Mr. Rodriguez
17 say, "Oh, you have it. Let me see it."

18 And that's all I know. I didn't know if
19 it was paperwork. I don't know anything about what
20 it was.

21 Q. What I want to ask you about is who went
22 at that point to the door between blue pod and
23 yellow pod.

24 A. Mr. Rodriguez and Mr. Martinez.

25 Q. Okay. So Blue is Mario Rodriguez?

1 A. Yes, ma'am.

2 Q. And Red is Timothy Martinez?

3 A. Yes.

4 Q. And that was on, according to you, March 6
5 of 2014 when right after or right as Urquizo, Varela
6 and this guy Cartoon were brought into the unit?

7 A. Yes, ma'am.

8 Q. And is there any doubt or is there any
9 wavering whatsoever, with respect to this version of
10 events, that Timothy Martinez was present for that
11 conversation?

12 A. He was there.

13 Q. Definitely?

14 A. He was there, yes.

15 Q. And according to you, what time or
16 approximately when in the day on March 6 was this
17 conversation between blue pod and yellow pod that we
18 just talked about?

19 A. I can't exactly be sure. I think it was
20 in the afternoon -- I want to say the afternoon.

21 Q. So sometime after lunch?

22 A. And before dinner.

23 Q. And you get locked down for count before
24 dinner; right?

25 A. Yes.

1 Q. And what time is that lockdown?

2 A. 4:00.

3 Q. And you get -- did you also get locked
4 down for lunch in your cell?

5 A. Yes, at 11:00.

6 Q. And then that lockdown is until noon?

7 A. Yes.

8 Q. So according to you, this interaction was
9 sometime between noon, when you were released after
10 lunch, and 4:00?

11 A. Yes, ma'am.

12 Q. Can you be any more specific?

13 A. I can't.

14 Q. Okay.

15 A. I do not know exactly what time it was.

16 Q. But you're saying it's definitely between
17 noon and 4:00 p.m.?

18 A. Yes.

19 Q. On March 6?

20 A. Yes.

21 Q. All right. Now I want to move to the next
22 day, because you testified that the next morning,
23 around 10:00 in the morning, blue pod went to rec.

24 A. Yes.

25 Q. Do you recall that testimony last week?

1 A. The whole unit went to rec, but we all had
2 our different cages.

3 Q. Okay. Blue, green, and yellow?

4 A. Yellow.

5 Q. And I think it was your testimony last
6 week that you came back from rec and there was a
7 lockdown for lunch?

8 A. Yes.

9 Q. And then it was sometime after lunch that
10 you say you saw Mario Rodriguez go to the door
11 between blue pod and yellow pod and get something
12 from underneath the door?

13 A. Yes.

14 Q. So you recall that testimony?

15 A. Yes.

16 Q. And you're telling us that that testimony
17 is correct in terms of what you meant to testify to?

18 A. Yes, ma'am.

19 Q. I didn't misunderstand it?

20 A. No.

21 Q. Now, whatever it was that you're claiming
22 was passed under the door, is it your testimony that
23 you saw it?

24 A. Yes, I saw that it was paper.

25 Q. Was it paper, just loose paper, like white

1 sheets of paper?

2 A. It was a couple of sheets of just loose
3 paper.

4 Q. And how far were from you that door when
5 you're saying that you saw it passed under the door?

6 A. About 10 to 15 feet.

7 Q. Okay. Your testimony is you had a clear
8 view?

9 A. Yeah.

10 Q. There was no -- there is no doubt in your
11 mind that that's what you saw, a few sheets of loose
12 paper?

13 A. Yes.

14 Q. And did you ever see it more closely than
15 that?

16 A. No.

17 Q. Did you ever get a chance to look at it or
18 read it?

19 A. No.

20 Q. And when you're saying that you saw this
21 happen, was he alone? Is your testimony that he was
22 by himself, or was somebody else at the door with
23 him?

24 A. He was by himself.

25 Q. Okay. Let me specifically direct you to

1 Timothy Martinez. Was Timothy Martinez with Mr.
2 Rodriguez when these few loose sheets of paper were
3 supposedly passed under the door?

4 A. No.

5 Q. Now, we talked a little bit last week
6 about some of your prior statements and testimony
7 about these events. Do you recall that?

8 A. Yes.

9 Q. And specifically I want to talk to you
10 about this deposition. I think I showed you some
11 pages from the deposition that was taken on
12 September 1st, 2015.

13 A. Yes, ma'am.

14 Q. And that was in connection with the state
15 case; right?

16 A. Yes, ma'am.

17 Q. And there was a representative of the
18 prosecution there; right?

19 A. Yes.

20 Q. Mr. Dougherty, the DA?

21 A. Yes, ma'am.

22 Q. And there was a lawyer from Mr. Montoya
23 there?

24 A. Yes.

25 Q. And your lawyer was there; right?

1 A. Yes.

2 Q. And you agreed to answer questions; right?

3 A. Yes.

4 Q. Did you testify at that deposition --
5 referring Court and counsel to page 17 of that
6 deposition -- that the transfer of this paperwork
7 you were saying happened occurred before lunch?

8 A. I don't believe I did.

9 Q. Have you had a chance to review that whole
10 deposition?

11 A. No.

12 Q. So if I approached you with that section,
13 do you want to take a look at it and see if maybe
14 that refreshes your memory about what that says?

15 A. Sure.

16 MR. CASTELLANO: For the record, I don't
17 think it was a deposition. It was definitely
18 questioning, but not a deposition. There's a
19 difference.

20 THE COURT: I'll let you work with that on
21 redirect. Overruled.

22 MS. JACKS: That's what I thought it was.

23 BY MS. JACKS:

24 Q. I'm going to move forward, Mr. Armenta,
25 and find that and bring that up to you in a minute,

1 because I want to ask you some more questions about
2 that deposition. Maybe I'll give you a chance to
3 look at it at a recess.

4 A. Okay.

5 Q. Or I'm going to call it a pretrial
6 interview. Okay? This was the interview where you
7 had sent the letter to Mr. Montoya's lawyer, right,
8 about become a witness for Mr. Montoya?

9 A. I sent it to Montoya and he sent it to his
10 lawyer.

11 Q. But the letter was addressed to the
12 lawyer; right?

13 A. I guess, yeah. I gave it to Jerry
14 Montoya. I wrote it for him. What he did with it
15 after that, that was his business.

16 Q. Can we have 756? I don't think I pulled
17 that out.

18 Here's the letter, 756. Do you want to
19 read the first line of the letter?

20 A. Yeah. The introduction is to him, to the
21 lawyer.

22 Q. This letter is to the lawyer of Jerry
23 Montoya?

24 A. Yeah.

25 Q. Okay. And as a result of this letter,

1 Exhibit 756, there was an interview that was set up;
2 right?

3 A. Yeah, by Mr. Montoya's attorney.

4 Q. That included the district attorney?

5 A. Yes.

6 Q. And that actual interview took place on
7 September 1st of 2015?

8 A. Yes.

9 Q. That's what I'm talking about.

10 Now, you told us just a few minutes ago
11 that, according to your testimony here today,
12 Timothy Martinez was not present at the door between
13 the pods when these papers were supposedly passed
14 under.

15 A. No.

16 Q. He was not there?

17 A. No.

18 Q. Okay. Back on September 17 of 2015, did
19 you have an interview with FBI Agent Joseph Sainato,
20 U.S. Attorney Maria Armijo, and other members of law
21 enforcement?

22 A. Yes.

23 Q. And during that interview, did you talk
24 with them about this alleged passing of paperwork?

25 A. Yes, I did.

1 Q. And during that interview, did you tell
2 them that the paperwork was passed to Timothy
3 Martinez and Mario Rodriguez?

4 A. No.

5 Q. Now, I want to ask you a little bit more
6 about your testimony last week. Because last week
7 you testified that after this paperwork, after you
8 saw these papers passed, that there was a phone
9 yard -- the pod was offered the opportunity to go to
10 phone yard. Do you recall that testimony?

11 A. Yes, ma'am.

12 Q. And I think you told us that Mario
13 Rodriguez stayed in from phone yard that day?

14 A. Yes.

15 Q. And you recalled a particular detail that
16 he had a curtain up in his cell window?

17 A. Yes.

18 Q. The truth is that last week, last Friday,
19 that's the first time you ever told that to anybody,
20 isn't it?

21 A. Possibly, yeah.

22 Q. Okay. Because you've had numerous
23 interviews with law enforcement, haven't you?

24 A. Yes.

25 Q. Did you tell that to law enforcement on

1 March 8, 2014?

2 A. I'm not sure.

3 Q. Did you tell it to law enforcement on
4 March 10th, 2014?

5 A. No.

6 Q. Did you tell -- did you tell it to anybody
7 during your pretrial interview on September 1st,
8 2015?

9 A. No.

10 Q. Did you tell it to anybody during your
11 interview with law enforcement on September 17,
12 2015?

13 A. No.

14 Q. Did you tell it to anybody during your
15 interview with law enforcement on October 6, 2015?

16 A. No.

17 Q. Did you tell it to anybody during your
18 interview with law enforcement on January 22, 2018?

19 A. No.

20 Q. So the first time you ever said anything
21 about Mario Rodriguez not going to phone yard and
22 hanging a towel up in his cell was last Friday?

23 A. Yeah.

24 Q. Now, last Friday you also testified that
25 at some point prior to stabbing Mr. Molina, you went

1 to Mario Rodriguez's cell and he provided you a
2 weapon. Do you recall that testimony?

3 A. Yes, I do.

4 Q. And during that time, it's your testimony
5 that he showed you how to use it?

6 A. Yeah.

7 Q. With respect to how to wrap the --

8 A. Wrap it around my wrist and stuff like
9 that, yes.

10 Q. Okay. Now, were there any other witnesses
11 present in Mario Rodriguez's cell, according to you,
12 when that occurred?

13 A. No.

14 Q. So you were alone?

15 A. Me and Mario Rodriguez, yes.

16 Q. The only two people in the cell when that
17 happened --

18 A. Yes.

19 Q. -- were you and Mario Rodriguez?

20 A. Yes, ma'am.

21 Q. I want to go back to the questions that I
22 was asking about the phone call that Mr. Duran was
23 going to make to STIU to set up an interview with
24 him.

25 A. Okay.

1 Q. Okay? Because I actually have the
2 transcript of what you testified to last week. So
3 I'm going to read you the question and answer, and
4 then I'm going to ask you to tell me what you were
5 talking about in your answer.

6 A. Okay.

7 Q. Okay. So the question from the prosecutor
8 was: "Eventually, did you on your own or did
9 Mr. Duran point you in the right direction in terms
10 of who you could talk to?"

11 And the answer by you: "Mr. Duran made a
12 phone call, and let the right people know to pull me
13 out of the pod and have a little chat with them to
14 see if I was serious about what he had offered, and
15 I did that."

16 A. Oh, okay, yeah.

17 Q. Do you recall that testimony last week?

18 A. Yes.

19 Q. So my question is: What were you talking
20 about? And in particular, when you said "to have a
21 little chat with them to see if I was serious about
22 what he had offered"?

23 A. So when I said that, what I meant was to
24 see if he was serious, I needed to see if he was
25 serious about sending me to the right people to talk

1 and get my way in to discuss what happened for the
2 Javier Molina murder.

3 Q. To see if Duran was serious?

4 A. Yeah.

5 Q. Okay. Had Duran basically told you that
6 if you participated with the Security Threat
7 Intelligence Unit and became a Government witness,
8 that they could do a little something for you in the
9 case?

10 A. No, they just said to "Help yourself."

11 Q. So it was vague about what your benefit
12 might be?

13 A. Just, yeah, "Help yourself. Help yourself
14 to do the right thing."

15 Q. So the -- what he had offered was that
16 you, by doing this, would be able to help yourself
17 in some manner?

18 A. Yes.

19 Q. And you made -- had the meeting with STIU
20 to see if Duran was really serious about that?

21 A. Yes.

22 Q. Okay. I want to approach you with two
23 pages of this pretrial interview. So I want to go
24 back to the point of whether previously in this
25 pretrial interview on September 1st you said that

1 this supposed transfer of paperwork happened prior
2 to lunch. Okay? And I'm going to give you two
3 pages, pages 16 and 17. Just take a moment to read
4 that, Mr. Armenta, because you kind of have to read
5 almost all of both pages to understand the point.

6 A. Okay.

7 Q. Have you had a chance to look at it?

8 A. Yes, ma'am.

9 Q. And did that refresh your memory to some
10 extent about what you said about during that
11 pretrial interview on September 1st, 2015?

12 A. Yes.

13 Q. I'm going to come back and get those pages
14 from you, because I just want to ask you a couple of
15 questions. During that interview on September 1st,
16 20 15, did you talk about seeing the paperwork
17 passed under the door?

18 A. I did.

19 Q. And did you say that after that happened
20 you went to lunch?

21 A. Went to lockdown.

22 Q. For lunch?

23 A. For lunch.

24 Q. So the lockdown for lunch happens about
25 11:00 a.m.; right?

1 A. Yes.

2 Q. So in this pretrial interview, when you
3 talked about the passing of paperwork, you talked
4 about it happening before the lunch lockdown.

5 A. Actually, it doesn't determine when,
6 before or after.

7 Q. Okay. You don't think it's specific as to
8 when?

9 A. No. All I know is what it says there is
10 that it was passed, but it didn't say before or
11 after lunch. I didn't determine that right there.

12 Q. You weren't directly asked the question
13 about the timing; right?

14 A. Right.

15 Q. And you were talking about seeing the
16 paperwork, and after you say that you saw the
17 paperwork the next thing that happened, according to
18 your answers to the questions in the pretrial
19 interview, there was then a lockdown for lunch?

20 A. Yeah. But prior to that, I said that we
21 were outside in the yard playing basketball and
22 handball, whatever.

23 Q. Correct.

24 A. So then we come back in and we go to
25 lockdown for lunch. Then we come out and go to yard

1 again, and then come back in for dinner court.

2 Q. I think you've made that clear. My only
3 point -- or my only question was: Isn't there a
4 difference between what you said here or what you
5 said in court here on Friday, that the paperwork
6 was -- that you say you saw the paperwork passed
7 after you got unlocked from the lunch lockdown, to
8 what you said in this pretrial interview where you
9 claim the paperwork was passed and then there was
10 the lockdown for lunch?

11 A. If they would have asked me what time, I
12 would have told them what I said Friday.

13 Q. I'm going to ask you about another letter
14 that I think you're a signatory to.

15 MS. JACKS: Can I approach? We have
16 Exhibit EJ, and I want to give a copy to the witness
17 to see if he knows what it is.

18 THE COURT: You may.

19 MS. JACKS: This has been previously
20 marked but not yet entered into evidence.

21 BY MS. JACKS:

22 Q. So Mr. Armenta, showing you what's been
23 marked as Exhibit EJ, I just want you to take a look
24 at that letter and, first of all, tell us if it's
25 something that you're familiar with. And it's two

1 pages, so take your time.

2 A. Okay. Yeah, I remember.

3 Q. Is this a letter -- are you a signatory to
4 this letter?

5 A. Yes.

6 Q. And did you participate in the writing of
7 this letter?

8 A. Not really. Because the person that wrote
9 it, he is really intelligent with words and
10 vocabulary and stuff, so he wrote it.

11 Q. Who wrote it?

12 A. Frederico Munoz.

13 Q. So would you agree with me that this is a
14 letter that's signed by five Government witnesses?

15 A. Yes.

16 Q. And you're the first one listed; right?

17 A. Yes, ma'am.

18 Q. And did you agree -- did the Government --
19 at the time of this letter, were the Government
20 witnesses housed together?

21 A. Yes.

22 Q. Were these five Government witnesses?

23 A. Yes, ma'am.

24 Q. And at the time of this letter, did the
25 Government witnesses discuss among each other

1 requesting the warden of the Penitentiary of New
2 Mexico to have a banquet?

3 A. Yes, we did.

4 Q. For them and their families?

5 A. Yes, we did.

6 Q. And did they make that request in the form
7 of a letter?

8 A. Yes, we did.

9 Q. And is this Exhibit EJ dated August 26,
10 2016, a true and correct copy of the letter that was
11 prepared to request the banquet?

12 A. Yes, ma'am.

13 MS. JACKS: Your Honor, I'd ask at this
14 juncture that Exhibit EJ be admitted.

15 THE COURT: Any objection, Mr. Castellano?

16 MR. CASTELLANO: Your Honor, may I review
17 the document?

18 MS. JACKS: Sure. I have a copy of it.

19 MR. CASTELLANO: Thank you, Your Honor.
20 No objection.

21 THE COURT: Any objection from any
22 defendant?

23 MS. FOX-YOUNG: No objection.

24 MS. DUNCAN: No, Your Honor.

25 THE COURT: Not hearing any objection.

1 Defendants' EJ will be admitted into evidence.

2 (Defendants' Exhibit EJ admitted.)

3 MS. JACKS: Thank you, Your Honor. May I
4 publish?

5 THE COURT: You may.

6 BY MS. JACKS:

7 Q. Can you see that on your monitor,
8 Mr. Armenta?

9 A. Yes, ma'am.

10 Q. I just want to go through the
11 circumstances of this letter. So at the time of
12 this letter -- let's go to the second page. The
13 letter is signed by you; right?

14 A. Yes.

15 Q. Benjamin Clark. That's another Government
16 witness?

17 A. Yes.

18 Q. Billy Cordova?

19 A. Yes, ma'am.

20 Q. Another Government witness?

21 A. Yes, ma'am.

22 Q. Robert Martinez, another Government
23 witness?

24 A. Yes, ma'am.

25 Q. And Frederico Munoz, another Government

1 witness?

2 A. Yes, ma'am.

3 Q. And at the time of this letter, which is
4 August 26 of 2016, had you all been housed in the
5 same unit together?

6 A. Yes.

7 Q. And for approximately how long, if you
8 know?

9 A. All of us together there on that list
10 since May of that year.

11 Q. And the letter was addressed to the warden
12 of the Penitentiary of New Mexico?

13 A. Yes, ma'am.

14 Q. And what was it requesting specifically?

15 A. To have a day for ourselves and our
16 families to have a little get-together, banquet.

17 Q. And you requested that certain people be
18 invited?

19 A. Yes.

20 Q. And the people that you wanted to be
21 invited are listed in the letter?

22 A. Yes.

23 Q. And it includes high-ups from the New
24 Mexico Department of Corrections?

25 A. Yes, ma'am.

1 Q. And members of law enforcement?

2 A. Yes, ma'am.

3 Q. And the prosecution team?

4 A. Yes, ma'am.

5 Q. Now, did Frederico Munoz take primary
6 responsibility for drafting the letter?

7 A. Yeah, we picked him. We asked him to
8 write it, and he said he would, because he's, you
9 know, like I said, he has a very extensive
10 vocabulary and has a good way with words.

11 Q. But did all of you sign onto the idea?

12 A. Yes.

13 Q. And did all of you sign off on the letter
14 that Mr. Munoz prepared?

15 A. Yes.

16 Q. And how was -- did you guys actually type
17 this letter?

18 A. No.

19 Q. Was it provided to somebody to type?

20 A. It was provided for somebody to type.

21 Q. And who was that?

22 A. That was Professor Bob Robinson.

23 Q. A professor?

24 A. Yes.

25 Q. So somebody that was coming into the

1 prison to give you some sort of educational
2 programming?

3 A. Yes, ma'am.

4 Q. And he took the handwritten letter of Mr.
5 Munoz --

6 A. Yes.

7 Q. -- and typed it up and forwarded it to the
8 Warden for you?

9 A. Yes.

10 Q. Okay. Now, I want you -- why don't you
11 start with just the first paragraph after, "Sir,"
12 and read what was written in that letter.

13 A. "Your inmates on federal holding in PNM
14 North Housing Unit 2-A, L pod, cordially and
15 respectfully request an event to celebrate our
16 continued participation in the joint effort of New
17 Mexico Corrections Department and the FBI in the
18 historic prosecution of the SNM Prison Gang.

19 "We would very much like this event to be
20 a banquet that includes our families, New Mexico
21 Corrections Department administrators and staff, and
22 relevant law enforcement personnel, as noted below."

23 Q. Okay. You can keep going. I'll stop you.

24 A. "Each us made the decision according to
25 his conscience to reject the beliefs and values that

1 motivated our shameful involvement in the SNM. Now
2 we individually desire to become full and
3 responsible participants in our society. And our
4 involvement in the prosecution of the SNM springs
5 from these decisions."

6 Q. Let me just stop you there. So when
7 this -- when you signed onto this sentence that Mr.
8 Munoz wrote, was it your true state of mind that you
9 individually desired to become a full and
10 responsible participant in society?

11 A. Yes, I want to be.

12 Q. That wasn't my question. My question is:
13 When you signed on to this letter, was that in truth
14 your state of mind?

15 A. Yeah.

16 Q. And had you made a decision according to
17 your conscience to reject the beliefs and values
18 that motivated your shameful involvement in the SNM?

19 A. Yes, it.

20 Q. You can keep going. I think you are at
21 "We are proud."

22 A. "We are proud of our cooperation with the
23 NMCD and the FBI, and we would enjoy an occasion to
24 commemorate it and our continued improvement with
25 those involved and our families.

1 "It is our desire to express our genuine
2 gratitude and respect for all of the Corrections
3 administrators and staff and law enforcement
4 personnel responsible for our current and wonderful
5 circumstances."

6 Q. Let me just stop you right there. At the
7 time of this letter, did you consider your current
8 circumstances of incarceration, quote, "wonderful"?

9 A. Yes.

10 Q. And were those "wonderful circumstances"
11 things that you got as a benefit of being a
12 Government witness?

13 A. Yes.

14 Q. And at the time that this letter was
15 written, was it your desire, your personal desire,
16 to express gratitude and respect for corrections
17 administrators and staff?

18 A. Yes.

19 Q. Okay. You can go on. "We believe."

20 A. "We believe our requests and agreements
21 have been and will continue to be honored to the
22 extent that is possible, and we are treated with
23 more respect and dignity than many of us have known
24 in some time.

25 "It would also be a great benefit to us

1 and our families to witness our positive
2 relationships with the corrections officials and
3 staff and law enforcement personnel. Our families
4 have an unfair and negative perception of these
5 entities because of how our behaviors have degraded
6 their perceptions. We believe a banquet event would
7 make significant progress in altering their
8 perceptions for the better.

9 "We are aware that it is difficult to
10 schedule events such as this. For this reason, we
11 make this request well in advance of a suggested
12 event date before or after the Thanksgiving holiday.

13 In addition, while our resources are limited, we
14 are willing to shoulder the food-related expenses
15 for the event."

16 Q. I'm going to stop there, because we can
17 see then the next part is really who you're inviting
18 from correction and law enforcement and the
19 prosecution team; right?

20 A. Yes, ma'am.

21 Q. As a result of this letter, which is
22 Defendant's Exhibit EJ, were you given this banquet?

23 A. Yes.

24 Q. And were you given this banquet with
25 people that you wanted to invite, people from your

1 family or friends?

2 A. Yes.

3 Q. And when did that actually occur?

4 A. December 23, 2016.

5 Q. I want to move to a different area, okay,
6 because you told us -- and I want you to correct me
7 if I'm wrong -- but you told us last week that you
8 didn't mean to kill Javier Molina?

9 A. I didn't want to.

10 Q. Okay. That wasn't the question.

11 A. But it happened.

12 Q. That wasn't the question. Do you recall
13 me asking you last week about the statements that
14 you had made about trying to stab Mr. Molina in such
15 a way that he wouldn't die?

16 A. Yes.

17 Q. To try to miss any sort of vital organs?

18 A. Yes.

19 Q. I think I asked you directly the question:
20 Did you mean to kill Mr. Molina? Do you recall
21 that?

22 A. Yes.

23 Q. And what was your answer?

24 A. No, I did not.

25 Q. Is that still your testimony?

1 A. Yes. Yes.

2 Q. So you didn't mean to kill him, and you
3 acted in such a way as to try not to stab him so you
4 would kill him?

5 A. Yes.

6 Q. You just wanted to injure him?

7 A. Yes.

8 Q. And it was your intent that Javier Molina
9 not die?

10 A. Yes.

11 Q. Now, I want to talk to you a little bit
12 about your plea agreement. And the Government asked
13 you some questions about this last week, and I'm
14 showing you the first page of that. That's
15 Government's Exhibit 678. You recall your plea
16 agreement; right?

17 A. Yes.

18 Q. And that plea agreement was negotiated
19 during the month of December, 2016?

20 A. Yes, ma'am.

21 Q. And you ultimately entered your plea on
22 December 13, 2016?

23 A. Yes, ma'am.

24

25 Q. Did you have enough time to go over this

1 plea agreement with your lawyer?

2 A. Yes.

3 Q. And you do understand what it is or what
4 crimes it was that you pled guilty to; right?

5 A. Yes, ma'am.

6 Q. And specifically, I'm referring to page 2
7 of the plea agreement. Specifically you pled guilty
8 to two criminal offenses; right?

9 A. Yes, ma'am.

10 Q. What was the first one you pled guilty to?

11 A. Conspiracy, conspiracy to murder.

12 Q. Conspiracy to murder Javier Molina; right?

13 A. Yes, ma'am.

14 Q. And the second offense that you pled
15 guilty to?

16 A. Was murder.

17 Q. Okay. Now conspiracy to murder. Let's
18 just start with murder. That's an easier one.
19 Murder is an intentional killing, is it not?

20 A. Yes, ma'am.

21 Q. So it's a killing you mean to do?

22 A. Well, yeah, murder is murder. You kill
23 somebody.

24 Q. And conspiracy to murder means agreeing
25 with other people to commit an intentional killing?

1 A. Yeah, there was a few of us that were
2 involved, so yes.

3 Q. But that's what the nature of conspiracy
4 is involving other people?

5 A. Yes.

6 Q. Not just yourself; right?

7 A. Yes, ma'am.

8 Q. So you signed this plea agreement; right?

9 A. Yes, ma'am.

10 Q. I'm showing you the signature page that
11 includes your signature; right?

12 A. Yes, ma'am.

13 Q. On December 13, 2016, you actually entered
14 your plea of guilty to conspiracy to murder and
15 murder in front of a magistrate judge?

16 A. Yes, ma'am.

17 Q. And the statements that you made during
18 the time that you entered your plea -- those
19 statements were made under oath, weren't they?

20 A. Yes.

21 Q. So on December 13, 2016, you told a judge
22 in this court that you intentionally murdered, you
23 intentionally killed Javier Molina --

24 A. Yes, ma'am.

25 Q. -- right?

1 And you also told the judge in this court
2 that you agreed with others to intentionally kill
3 Mr. Molina?

4 A. Yes, ma'am.

5 Q. But your testimony here in this court is
6 that you didn't intentionally kill him; that you
7 specifically tried not to kill him; right?

8 A. Yes.

9 Q. So are you telling us that you pled guilty
10 to crimes you didn't commit?

11 A. I pled guilty to crimes that I committed.

12 Q. Well, so how could it be that you
13 intentionally meant to kill Mr. Molina, according to
14 your statements in December of 2016, and now you're
15 saying it was unintentional?

16 A. Because I'm pleading guilty to murder.

17 Q. Okay. Well, I guess what I'm wondering,
18 Mr. Armenta, is: Did you plead guilty to murder and
19 conspiracy to commit murder not because you believe
20 that you had actually done that, but because that's
21 what you needed to do to get your Government
22 benefits?

23 A. No, it's because I am taking my
24 responsibility.

25 Q. Okay. Well, are you taking

1 responsibility?

2 A. It's my responsibility.

3 Q. Well, are you taking responsibility here
4 in this proceeding when you say you didn't mean to
5 kill him?

6 A. I didn't.

7 Q. I'm sorry?

8 A. I did not mean to kill him.

9 Q. So how are you guilty of murder if you
10 didn't mean to kill him?

11 A. Because I killed him.

12 Q. The truth is: You agreed with what the
13 Government wanted you to say so that you can get the
14 benefits they're offering?

15 A. No. The truth is I killed Mr. Javier
16 Molina.

17 Q. But the truth is -- you're telling us the
18 truth is you didn't mean to?

19 A. No, of course not.

20 Q. Well, if you didn't mean to, then you're
21 not guilty of murder?

22 A. Yes, I am guilty of murder.

23 Q. So you actually did mean to?

24 A. No, not at the time. I did not mean to
25 kill Mr. Javier Molina.

1 Q. Would you agree with me, Mr. Armenta, that
2 entering into a plea agreement in federal court is a
3 serious matter?

4 A. Yes.

5 Q. And if you don't live up to the terms of
6 the agreement that you made with the Government, you
7 could end up spending the rest of your life in
8 prison?

9 A. Yes, ma'am.

10 Q. With no chance of parole?

11 A. Yes, ma'am.

12 Q. Did you take it seriously?

13 A. Yes.

14 Q. Have you taken it seriously since?

15 A. Yes, I have.

16 Q. Let's talk about what happened or sort of
17 what was going on around December 13 of 2016. Okay?
18 I think you told us that about 10 days later was
19 this banquet that you had requested from Corrections
20 officials?

21 A. Yes, ma'am.

22 Q. For your good behavior?

23 A. Yes, ma'am.

24 Q. And your respect for law enforcement?

25 A. Yes, ma'am.

1 Q. And for your desire to become a good and
2 contributing member of society?

3 A. Yes, ma'am.

4 Q. Now, at the time of your plea agreement,
5 had you been receiving money from the federal
6 government?

7 A. Yes.

8 Q. And was it one payment, or did you get
9 several payments over time?

10 A. Before that date I had gotten two, I
11 believe.

12 Q. Two payments?

13 A. Yes.

14 Q. Of how much money, if you know?

15 A. About \$500.

16 Q. Okay. And what about after you entered
17 your plea agreement? Did you get some additional
18 money?

19 A. I want to say yeah, but I'm not too, too
20 sure if I did. I can't remember that.

21 Q. Let me go through this. On July 20, 2016,
22 were you paid \$200 by the federal government for
23 your services from January 1st, 2016, to May 31,
24 2016?

25 A. Yes.

1 Q. And your services were services of being a
2 Government witness?

3 A. Yes.

4 Q. Were you paid \$300 on September 23, 2016,
5 for services that you provided between June 1st and
6 September 19 of 2016?

7 A. Yes, ma'am.

8 Q. And were you paid \$250 on December 22,
9 2016, for services between December 1st and December
10 30 of 2016?

11 A. Yeah.

12 Q. Aside from those cash payments, which if
13 my math is right totals \$750, have you received any
14 other cash benefits?

15 A. No.

16 Q. You've told us -- or at least you told the
17 Warden, and I think you've repeated here in court --
18 that you were provided favorable confinement
19 conditions for being a Government witness?

20 A. Yes.

21 Q. Conditions that were described in that
22 letter as wonderful?

23 A. Yes, ma'am.

24 Q. Were you provided contact visits with
25 either your family or others that you desired to

1 have them with?

2 A. Yes, ma'am.

3 Q. And were you promised that if you provided
4 substantial assistance in this prosecution that you
5 could earn a reduced sentence?

6 A. No, not at the time.

7 Q. You were never promised?

8 A. No, I was never promised, "Oh, if you do
9 this, you'll get way less time," or anything like
10 that.

11 Q. My question was that were you promised
12 that if you provided substantial assistance, you
13 could earn a reduced -- a substantially reduced
14 sentence?

15 A. "We could help you" is what it was said.

16 Q. Okay. And that was part of your plea
17 agreement; right?

18 A. Yes.

19 Q. I mean there was this addendum -- this is
20 Government's Exhibit 679 -- and this is the addendum
21 to your plea agreement; right?

22 A. Yes, ma'am.

23 Q. And this was entered into the same day as
24 you pled guilty?

25 A. Yes.

1 Q. December 13 of 2016?

2 A. Yes, ma'am.

3 Q. And this outlines the fact that if you
4 provide substantial assistance to the Government,
5 then you could earn a reduced sentence?

6 A. Yes.

7 Q. Get a sentence of less than life in
8 prison?

9 A. I could.

10 Q. For the murder that you plead guilty to?

11 A. Yes, ma'am.

12 Q. Even though you didn't commit an
13 intentional killing?

14 A. Yes, ma'am.

15 Q. So Mr. Armenta, while your lawyer was
16 negotiating this plea agreement -- let's just go
17 back. Your plea agreement obligates you to promise
18 to tell the truth?

19 A. Yes, ma'am.

20 Q. And while your lawyer was negotiating this
21 plea agreement, were you taking advantage of the
22 benefits you were receiving as a Government witness?

23 A. Yes, I was.

24 Q. Around the time of this plea agreement
25 that you were negotiating and signed this plea

1 agreement, were you acting in such a way as to
2 demonstrate your -- and I'm quoting from this letter
3 to the warden -- were you acting in such a way as to
4 demonstrate your, quote, desire to become a full and
5 responsible participant in society?

6 A. No, I wasn't.

7 Q. Were you acting in such a way that showed
8 your, quote, genuine gratitude and respect for the
9 corrections administrators and staff and law
10 enforcement personnel?

11 A. No, I wasn't.

12 Q. So that letter, that letter for the
13 banquet, was just another example of a letter that
14 was intended to manipulate somebody into getting
15 what you wanted?

16 A. No, it wasn't manipulation.

17 Q. Well, you made representations in that
18 letter about how you felt; right? Right?

19 A. Yes, ma'am.

20 Q. And it's easy to say those things, isn't
21 it?

22 A. Oh, yes.

23 Q. But your actions at and around the time of
24 the banquet showed otherwise, didn't they?

25 A. Yes, they did.

1 Q. Let's just talk about these wonderful
2 confinement circumstances that you had, because one
3 of the benefits that you got was the ability to have
4 contact visits with your family; right?

5 A. Yes, ma'am.

6 Q. But your family wasn't interested in
7 having those visits, were they?

8 A. My mom came almost every other week.

9 Q. I'm not referring to your mom.

10 A. I haven't visited them in four years, so
11 they weren't on my mind to have them come visit.

12 Q. Your wife and children?

13 A. My ex-wife.

14 Q. Your ex-wife, stepchildren, and children?

15 A. My children.

16 Q. So your mother visited you?

17 A. My mother, my fiancée, my nieces, my
18 stepfather, my sister.

19 Q. Okay. Well, let's talk about this
20 fiancée, okay. This fiancée -- does she have a
21 name?

22 A. Her name is Carolyn.

23 Q. And how did you meet Carolyn?

24 A. Through a mutual friend.

25 Q. Well, you met her through Mr. Duran,

1 didn't you?

2 A. Well, yeah, a mutual friend.

3 Q. The same guy, the same guy that suggested
4 you go to the STIU and become a Government witness?

5 A. Um-hum.

6 Q. Is that yes?

7 A. Yes, ma'am.

8 Q. The same guy that told you that you could
9 benefit yourself by working for the Government?

10 A. Yes, by doing the right thing.

11 Q. So he introduced you to this Carolyn?

12 A. Yes.

13 Q. And did you know Carolyn before you ended
14 up in New Mexico State prison?

15 A. No, I did not.

16 Q. So your relationship with her started
17 while you were in prison?

18 A. Yes, ma'am.

19 Q. And you were permitted, because of your
20 status as a Government witness, to have contact
21 visits with her?

22 A. Yes.

23 Q. And I think you told us last week that she
24 came and participated in these visits with you?

25 A. Yes.

1 Q. At two different institutions?

2 A. Yes.

3 Q. What was the first place?

4 A. Grants, New Mexico.

5 Q. And then in Santa Fe?

6 A. Yes, ma'am.

7 Q. And there were contact visits at both
8 locations?

9 A. Yes, ma'am.

10 Q. How many times did this woman you met
11 while you were in prison, through Eric Duran -- how
12 many times did she come and visit you?

13 A. I would say about 12, 13 times; 15 times,
14 maybe.

15 Q. Twelve to fifteen times?

16 A. Yes.

17 Q. Okay. And at some point, those visits --
18 she stopped visiting you; right?

19 A. No.

20 Q. Well, did she -- at some point, weren't
21 her visits with you terminated by law enforcement?

22 A. They just stopped. We got transported the
23 next week. They said they were canceled
24 indefinitely for all the contact visits. They could
25 still come, but it would be through a glass.

1 Q. So let's talk about the visits at Santa
2 Fe.

3 A. Okay.

4 Q. You told us Friday that you abused the
5 terms of the contact visits in Santa Fe.

6 A. Yes, ma'am.

7 Q. Did you also do that at Grants?

8 A. No.

9 Q. Okay. It just started at Santa Fe?

10 A. Yes.

11 Q. Now, where do the visits with Carolyn --
12 where were you permitted to visit with her in Santa
13 Fe?

14 A. In an attorneys' cubicle room.

15 Q. It's the same kind of room where you would
16 visit with your lawyer?

17 A. Yes.

18 Q. Is it the exact same room?

19 A. Well, there's three of them, so it just
20 depends on where they put you that day, but yeah.

21 Q. There's sort of three rooms in a row?

22 A. Yes.

23 Q. First of all, do these rooms have a door?

24 A. Yes, ma'am.

25 Q. Does the door have a window?

1 A. Yes.

2 Q. Do these rooms have a window?

3 A. Yes.

4 Q. And you visited with your attorney in
5 those rooms before; right?

6 A. Yes.

7 Q. Now, when you visit with your attorney in
8 those visiting rooms, is there a guard stationed
9 somewhere in the vicinity of the room?

10 A. Yes, on the other side of the, I guess you
11 would say, lobby part of it, yes.

12 Q. And the guard is stationed there to
13 monitor the visit with your lawyer?

14 A. Yes.

15 Q. Now, when you were allowed to have contact
16 visits with Carolyn in this same area, was there a
17 guard stationed somewhere in the vicinity of these
18 visiting rooms?

19 A. Yes, ma'am.

20 Q. And where was the guard stationed?

21 A. At a desk on the other side of the lobby,
22 the room.

23 Q. At the same place where the guard would be
24 stationed for a visit with your attorney?

25 A. Yes.

1 Q. And is there, at least in your mind, a
2 purpose for a window in these visiting rooms and a
3 window on the door?

4 A. Yeah, so every once in a while when he
5 does his little round, he can look in.

6 Q. And see what's going on in the room?

7 A. Yes, ma'am.

8 Q. And have you seen the guards do the rounds
9 like that when you're visiting with your lawyer?

10 A. Yes.

11 Q. So what about when you were visiting,
12 having these contact visits with Carolyn? Did the
13 guard make the rounds?

14 A. Oh, yeah.

15 Q. And I think you told us on Friday that
16 there were also cameras that were monitoring those
17 visiting rooms; right?

18 A. Yes, ma'am.

19 Q. Is there a camera in each room?

20 A. Not in each room, but yes, there is a
21 camera. The one that we were in, there is a camera.

22 Q. And you're aware that at least some of
23 your misconduct with Carolyn was caught on camera;
24 is that right?

25 A. Yes, ma'am.

1 Q. How many times did you have contact visits
2 with Carolyn in the visiting rooms at Santa Fe?

3 A. How many contact visits?

4 Q. Yeah.

5 A. Quite a few. We had almost every --
6 almost every weekend or every other weekend.

7 Q. Well, and you said a total of somewhere
8 between 12 and 15 contact visits with her when you
9 combine Grants and Santa Fe; right?

10 A. Yeah.

11 Q. How many of that 12 to 15 occurred at
12 Santa Fe?

13 A. I would say about 10, 12, maybe.

14 Q. So the vast majority occurred in Santa Fe?

15 A. Yes, because there was only, like, two
16 that we had in Grants before we were transferred.

17 MS. JACKS: Your Honor, may we approach?

18 THE COURT: You may. Why don't we do
19 this: Why don't we excuse the jury to take their
20 morning break? Why don't we be in recess for about
21 15 minutes, so I'll meet with the lawyers while
22 y'all are taking a break.

23 (The jury left the courtroom.)

24 THE COURT: All right. Can we take this
25 issue up maybe after our break?

1 MS. JACKS: No problem.

2 THE COURT: Let's do that. Let's take our
3 break, then we'll take up Ms. Jacks' issue.

4 (The Court stood in recess.)

5 THE COURT: All right. Let's go on the
6 record. Let me ask Mr. Villa something before --
7 y'all filed, I guess yesterday, a sealed ex parte
8 notice about Mr. Perez' health conditions. Did you
9 intend to keep that from the Government or just file
10 it under seal? I think it probably should be
11 disclosed to the Government. Everything in here is
12 stuff that, you know, they may want to take issue
13 with because some of it you, as counsel, are going
14 to make representations, but others are just
15 observations so --

16 MR. VILLA: Yes, certainly sealed. And
17 Ms. Fox-Young filed it. Let me check with her.
18 She's still making her way back to the court.

19 THE COURT: Unless I hear otherwise from
20 you, I'm going to ask Ms. Standridge to just make it
21 sealed, not ex parte.

22 MR. VILLA: Sure, Your Honor.

23 And I just want to also state for the
24 record, we got two copies of Mr. Perez' file. I
25 think those are the only copies that have been made.

1 We're going to review them, make proposed
2 redactions, and then keep one copy for ours.

3 THE COURT: That's fine.

4 MR. VILLA: Okay.

5 THE COURT: Ms. Fox-Young, I was telling
6 Mr. Villa that unless y'all think otherwise, this
7 sealed ex parte document -- I intend to keep it
8 sealed. But I don't think it should be kept from
9 the Government or from other parties. I don't think
10 it should be ex parte.

11 MS. FOX-YOUNG: That's fine with me, Your
12 Honor.

13 THE COURT: So we'll seal it, but we'll
14 not make it ex parte, if the Government or any
15 defendant wants to comment on that.

16 MS. FOX-YOUNG: I think the main reason
17 was just so that it's not available for anybody who
18 wants to pull it off online. No objection at all.

19 THE COURT: Unless anybody has objection
20 to dealing with it that way, not hearing any, that's
21 the way we'll deal with it.

22 Ms. Jacks, you had something before we
23 bring the jury in?

24 MS. JACKS: Your Honor, I do. The time
25 has come for me to offer that redacted or edited sex

1 tape. And I didn't want to do that without giving
2 the Government a chance to object.

3 THE COURT: Well, I think it's marginal,
4 but I do think it kind of comes under 401, beats the
5 403, and satisfies 401, 402, 403. It's got some
6 propensity, but a lot of evidence in this case does.
7 It seemed to me that it had enough relevance to add
8 it. I think it's a marginal one, but I think it
9 crosses the line for me.

10 Mr. Castellano?

11 MR. CASTELLANO: Yes, Your Honor, as the
12 Court knows, we object to that evidence under 401,
13 403, and 404. The witness has been impeached.
14 Ms. Jacks spent a fair amount of time asking him
15 about the visits, how he views the visits, asked him
16 about the letter written to the Corrections
17 Department, how his actions were inconsistent with
18 being grateful and being a contributing member of
19 society. So she's gotten everything out of that
20 that she wanted. So the only thing that's remaining
21 at this point is 403, substantial prejudice to the
22 Government, and unduly swaying the jury with a video
23 and under 404 as well. I think the impeachment has
24 occurred. So what more does the video add, is the
25 question. It doesn't add anything.

1 THE COURT: Ms. Jacks, anything you want
2 to add?

3 MS. JACKS: I would just say that I think
4 the video shows the extent and the blatant nature of
5 the misconduct and goes to the witness' attitude
6 toward the commitments that were supposedly made in
7 connection with the cooperation.

8 MR. CASTELLANO: And she's done that with
9 her cross-examination already, Your Honor.

10 THE COURT: Well, I've been very generous
11 to, I think, all sides to let them put on their case
12 and the robustness that the evidence allows. I'm
13 not inclined to start slicing and dicing this piece
14 of evidence. So I'll allow the tape to --

15 MS. JACKS: In order to authenticate the
16 tape, and actually confirm it, is Mr. Armenta -- do
17 we want to show it to him here outside the presence
18 of the jury and move for its admission? Or should I
19 just move to admit it, and we can show it, and I can
20 talk to him about it as we show it to the jury?

21 THE COURT: It's up to you. I mean, I
22 think it's coming in. But it's your call.

23 MS. JACKS: Well, if the Government is
24 going to object that it's not authentic, then I
25 would propose to do it now.

1 THE COURT: All right. Go ahead.

2 BY MS. JACKS:

3 Q. Okay. Can we mark Defendant's Exhibit
4 AB2? And Mr. Armenta, I'm just going to play this
5 for you. I'll play a few minutes of it, and I'm
6 going to ask you if this is, in fact, you and
7 Carolyn in the visiting room at PNM, and if it
8 appears to be at least an excerpt of the visitation
9 that you had there with her?

10 A. Okay. All right.

11 (Tape played.)

12 Q. Okay. Is that you, Mr. Armenta?

13 A. Yes, ma'am.

14 Q. And is that an fair and accurate
15 representation of at least that visit on November 5,
16 2016?

17 A. Yes, ma'am.

18 MS. JACKS: Ms. Gilbert, do you want to
19 fast-forward to the next one, December 3?

20 (Tape played.)

21 Q. Mr. Armenta, looking at this portion of
22 the tape, is that again you with Carolyn in the
23 visiting room at PNM North?

24 A. Yes.

25 Q. And is that a fair representation of what

1 occurred in the visiting room on that day?

2 A. Yes, ma'am.

3 Q. And finally, this is December 31.

4 (Tape played.)

5 Q. Is you this and Carolyn in the visiting
6 room at PNM North?

7 A. Yes, ma'am.

8 Q. And does this appear to be a fair and
9 accurate representation of what occurred in the
10 visiting room on that day?

11 A. Yes.

12 MS. JACKS: Thank you. I think that's
13 all.

14 THE COURT: All right. Anything further
15 on that, Mr. Castellano? It seems to me it's been
16 sufficiently authenticated.

17 MR. CASTELLANO: I agree it has been
18 authenticated. The only question is, is that the
19 entire length of each of those clips? Otherwise,
20 the same objection as to the need to show anything.

21 MS. JACKS: Those clips were provided to
22 the Government weeks ago at the beginning of this
23 trial, and I think the whole video on Armenta is how
24 long? Less than two minutes, like a minute and a
25 half.

1 MR. CASTELLANO: Because I stated as long
2 as that is the extent of the clips, then yes, I
3 understand.

4 THE COURT: Is that what you intend the
5 have admitted?

6 MS. JACKS: Yes, Your Honor. We started
7 with obviously much longer and unedited versions,
8 but at the Court's instruction, we edited and pared
9 it down.

10 THE COURT: All right. So I'll admit
11 Defendants' Exhibits AB2.

12 All right. All rise.

13 (The jury entered the courtroom.)

14 THE COURT: All right. Everyone be
15 seated.

16 Mr. Armenta, I'll remind you you're still
17 under oath.

18 THE WITNESS: All right.

19 THE COURT: Ms. Jacks, if you wish to
20 continue your cross-examination of Mr. Armenta, you
21 may do so at this time.

22 MS. JACKS: I do, Your Honor. Your Honor,
23 we'd ask that a video clip marked AB 2 be admitted.

24 THE COURT: It is admitted into evidence.

25 MS. JACKS: Thank you.

1 (Defendants' Exhibit AB 2 admitted.)

2 BY MS. JACKS:

3 Q. Mr. Armenta, during the recess, you had an
4 opportunity to take a look at this video?

5 A. Yes, ma'am.

6 Q. And you've confirmed for us that this is
7 in fact -- these are, in fact, excerpts from your
8 visits with Carolyn at PNM North?

9 A. Yes, ma'am.

10 Q. May we play the video, please?

11 (Tape played.)

12 Q. Can we pause? Now, Mr. Armenta, is this
13 the attorney visiting room where this visit is
14 occurring with Carolyn?

15 A. Yes, ma'am.

16 Q. And can you see -- whoops, I guess it
17 didn't pause. Could you see the window?

18 A. Yes.

19 Q. And where is the window in the video. Can
20 you point to it?

21 A. Right here.

22 Q. Okay. You marked a blue -- that's
23 actually a window that goes out to the area where
24 the guard is watching; is that right?

25 A. Yes, ma'am.

1 Q. And then do we see the door in this video?

2 A. Yes, ma'am.

3 Q. And is there -- do you see the window
4 that's in the door?

5 A. Yes, ma'am.

6 Q. And can you make a mark on that?

7 A. Right here.

8 Q. Okay. That's the door, and there is a
9 window right there?

10 A. There's two windows. There's a window
11 here, a window here, and the door here.

12 Q. So is there a window on either side of the
13 door? Is that what you're telling us?

14 A. No, there's two windows and then the door.

15 Q. And this is on November 5, 2016; right?

16 A. Yes, ma'am.

17 Q. So this is after the letter to the Warden
18 of PNM but before the banquet?

19 A. Yes, ma'am.

20 MS. JACKS: We can proceed. Thank you.

21 (Tape played.)

22 MS. JACKS: Can we pause?

23 BY MS. JACKS:

24 Q. So this is December 3 of 2016?

25 A. Yes.

1 Q. This is another visit with Carolyn in what
2 appears to be the same visiting room?

3 A. Yes, ma'am.

4 Q. And again, is Carolyn giving you oral sex
5 at this point?

6 A. Yes, ma'am.

7 Q. Just like the previous visit?

8 A. Yes, ma'am.

9 Q. Or the previous visit that's on video?

10 A. Yes, ma'am.

11 Q. We can continue.

12 (Tape played.)

13 Q. This is December 31 of 2016?

14 A. Yes, ma'am.

15 Q. And this is right after the banquet?

16 A. Yes, ma'am.

17 Q. Now, where was the guard while this was
18 happening?

19 A. He is outside of the room. If you walk
20 out of the door and take about 30 steps to the left,
21 that's where his desk is at.

22 Q. And is it your -- these are -- you'll
23 agree with me that the videos in this exhibit are
24 just excerpts of what occurred during the visits;
25 right?

1 A. Yes, ma'am.

2 Q. The visits, in fact, were much longer?

3 A. Yes.

4 Q. How long were these contact visits?

5 A. She usually came for about three hours,
6 four hours sometimes.

7 Q. Would you agree that this type of behavior
8 occurred throughout the visits?

9 A. Yes, at different times, yes.

10 Q. Did the guard ever walk by during these
11 visits?

12 A. They walked by, but they didn't walk by
13 while we were doing stuff, no.

14 Q. We can finish with the video. Oh, it's
15 done. We can take it off the screen then.

16 So how was it at least that this was
17 brought to your attention that you had been caught
18 abusing the rules?

19 A. The administration came and told us that
20 they were canceling the visits.

21 Q. And were you told at that point that the
22 visits were captured on video?

23 A. Yes.

24 Q. And have you, in fact, had an opportunity
25 to see the full uncut videos of those visits?

1 A. No, I have not.

2 Q. You know they exist; right?

3 A. Yes.

4 Q. When was it that you were told the visits
5 were canceled?

6 A. I would say it was January 7. No, no, no.
7 6th of 2017.

8 Q. Okay. So these visits that we just saw
9 were occurring in November and December of 2016?

10 A. Yes, ma'am.

11 Q. During the same time period that your plea
12 deal with the Government was being negotiated?

13 A. Yes, ma'am.

14 Q. During the same time that you came to
15 court and entered your plea of guilty?

16 A. Yes, ma'am.

17 Q. And after these visits were canceled, did
18 you continue to conduct yourself without -- well,
19 with disregard about what the rules were of the
20 prison?

21 A. No.

22 Q. You started conforming your behavior?

23 A. Well, we were only there for another week.

24 Q. Oh, and then you got transferred?

25 A. Yes, ma'am.

1 Q. But before you got transferred, did you
2 engage in some sort of additional misconduct with
3 your computer tablet?

4 A. Oh, yes. Yes. I reset it.

5 Q. And when did you reset -- first of all,
6 you got the tablet under an agreement that you would
7 use to it view discovery in this case; right?

8 A. Yes, ma'am.

9 Q. And your tablet was updated with various
10 reports and audio and witness statement as those
11 became available in the case; right?

12 A. Yes, ma'am.

13 Q. And you got to have that tablet with you
14 in your cell 24 hours a day?

15 A. Yes, ma'am.

16 Q. Seven days a week?

17 A. Yes, ma'am.

18 Q. And to familiarize yourself with not only
19 the evidence in the case but things that other
20 people said?

21 A. Yes, ma'am.

22 Q. And even when these visits were going on
23 with Carolyn, you continued to have access to your
24 computer tablet; right?

25 A. Yes.

1 Q. When in relation to being told that your
2 visits with Carolyn had been canceled because you
3 had abused the rules of the prison did you reset
4 your tablet?

5 A. It was before the new year.

6 Q. So in December of 2016?

7 A. Yes.

8 Q. Did you testify last week it was January
9 of 2017?

10 A. Yeah, I might have. It was pretty close.
11 It was right there in that.

12 Q. So it all happened within the same
13 timeframe?

14 A. Yes, within a week of each other; I would
15 say two weeks, maybe.

16 Q. And by resetting your tablet, did you know
17 that you had violated an order of this Court?

18 A. Yes, ma'am, I did.

19 Q. And you violated it. It wasn't a mistake
20 that you reset the tablet; right?

21 A. No.

22 Q. You did it intentionally?

23 A. Well, yeah. I mean, a guy who's the one
24 that reset it, someone else -- and when he told me
25 that he reset it, I said, "Reset mine."

1 Q. So somebody told you they had reset their
2 own tablet?

3 A. Yes.

4 Q. And this was another Government witness?

5 A. Yes, ma'am.

6 Q. And this was somebody that you were housed
7 with?

8 A. Yes, ma'am.

9 Q. Who was it?

10 A. Roy Martinez.

11 Q. So it was another one of the people that
12 had signed onto this letter to the warden at PNM?

13 A. No.

14 Q. Oh, a different person?

15 A. Yes, it was Roy, not Robert.

16 Q. And were you housed with Mr. Roy Martinez?

17 A. Yes, we were a couple doors away from each
18 other.

19 Q. And for how long did you share a housing
20 unit with him?

21 A. Since September of 2016. I mean -- yeah,
22 '16.

23 Q. September 2016 until when?

24 A. Until we were together all the way up
25 until August of 2017.

1 Q. So for almost a year?

2 A. Yes.

3 Q. And Roy Martinez also had a tablet?

4 A. Yes.

5 Q. So he told you that he reset his?

6 A. Yes.

7 Q. And what sort of opportunities became
8 available to him once he reset his tablet?

9 A. You could use the camera, play games, work
10 with the Windows program on there, write stories, or
11 whatever. And he was typing a lot, like a journal
12 type of thing. He was always writing or typing.

13 Q. So you could use it almost like a regular
14 computer?

15 A. Yeah.

16 Q. And once you found out that he had reset
17 his, you offered yours up and said, "Do it to mine"?

18 A. I got excited. "Do mine. Do mine."

19 Q. Now, during the time period that your
20 tablet had been reset, were you living in a housing
21 unit with other Government witnesses?

22 A. Yes, ma'am.

23 Q. Was that for the whole time?

24 A. The whole --

25 Q. Let me reorient you to some dates. I

1 think we heard last week that your tablet was reset
2 and that you had it for several months before it was
3 seized?

4 A. Oh, yes.

5 Q. And was it seized sometime in May of 2017?

6 A. No, it was paper.

7 Q. Okay. Do you remember the date?

8 A. Not exactly, but it was around my birthday
9 time, so it was like, I would say, 15, 16 of April,
10 something like that.

11 Q. Sometime in the middle of April 2017?

12 A. Yes.

13 Q. So between the time that you had your
14 tablet reset in December of 2016, through April of
15 2017, were you housed with other Government
16 witnesses?

17 A. Yes.

18 Q. And did those -- approximately how many?

19 A. Eight, eight or nine.

20 Q. And did each of those other Government
21 witnesses at the time have their own tablet?

22 A. Yes.

23 Q. So none of them had a reason to use your
24 tablet?

25 A. No.

1 Q. Now, last week, when you were being asked
2 about the teenage pornography sites that were
3 Googled from your tablet, you left us to -- or you
4 insinuated that perhaps somebody, not you, had
5 Googled those things. Do you recall that testimony?

6 A. Yes, ma'am, I do.

7 Q. So who were you implying did that besides
8 you?

9 A. We were also housed with other inmates
10 other than cooperating witnesses, about seven or
11 eight other witnesses -- not witnesses, but inmates.
12 At Sandoval County jail.

13 Q. And is it your testimony that you lent
14 your tablet out to other inmates?

15 A. Yes, ma'am.

16 Q. Now, other inmates weren't Googling the
17 name Cheryl Ann Martinez, were they?

18 A. No.

19 Q. Other inmates weren't Googling your name,
20 were they?

21 A. I did.

22 Q. So you admit at least some of the Google
23 searches on that tablet were yours?

24 A. Of course, yes.

25 Q. And of those other inmates, did you lend

1 your tablet out to all of them, or just one?

2 A. It was mainly four of them that would come
3 in. See, at first, we were trying to keep it a
4 secret from them. And they ended up just finding
5 out. And when they did, we didn't want them to say
6 anything, so we let them use the computers.

7 Q. Well, would you let them use it in your
8 presence, or would you let them run off with it?

9 A. They'd use it in my room. If I had to
10 leave, I'd leave and just leave them there to do
11 what they had to do or what they wanted to do.

12 Q. And were there materials -- were there
13 pornographic materials downloaded onto your tablet
14 so you could watch them when you weren't connected
15 to the internet?

16 A. Yes.

17 Q. And were the pornographic materials
18 downloaded to your tablet -- did those include
19 images of teenagers?

20 A. Not that I'm aware of, because it's
21 illegal. All the sites that I had went to were all
22 adult sites.

23 Q. Once the tablet was taken away in April of
24 2017, have you ever gotten it back?

25 A. No, ma'am.

1 Q. Was the resetting of the tablet the last
2 abuse of the rules of the Department of Corrections
3 that you've engaged in?

4 A. Yes, ma'am.

5 Q. Nothing since then?

6 A. With the Department of Corrections, yeah,
7 nothing. I haven't been to the Department of
8 Corrections.

9 Q. How about the rules of any law enforcement
10 agency where you're housed?

11 A. I got a couple misconduct reports.

12 Q. Let's talk about what happened in
13 September of 2017.

14 A. September, okay.

15 Q. Because in September 2017, you got caught
16 trying to work some new scam, didn't you?

17 A. Some what?

18 Q. New scam?

19 A. News scan?

20 Q. New, new, a different scam.

21 A. No.

22 Q. You didn't?

23 A. No.

24 Q. Let's talk about a violation of the rules
25 of the prison where you were housed in September of

1 2017. Is it your testimony that you have no
2 recollection of what happened?

3 A. I don't understand any -- what you mean by
4 "new scam."

5 Q. Well, let's talk about --

6 MS. JACKS: Your Honor, I have a letter
7 that's been marked as Government's Exhibit 758 and I
8 think it's been previously admitted. May I put this
9 on the Elmo?

10 THE COURT: Let me just double-check.
11 Yes, it's been admitted.

12 BY MS. JACKS:

13 Q. So Mr. Armenta, do you recall being asked
14 about this letter by Government prosecutors last
15 week?

16 A. Yes, I remember now, I'm sorry.

17 Q. And this was -- well, why don't -- first
18 of all, you read us what this letter says. It's
19 light, so if you need me to walk a copy up to you,
20 I'd be happy to do that.

21 A. That would be better, if you could,
22 please.

23 "What's up, ladies? I seen you all
24 yesterday doing the damn thing. That's what's up.
25 Anyway, my name is Jerry Armenta. Everyone calls me

1 Kreaper. I'm sending this missive your way in hopes
2 of catching me a champion. Myself and the homies
3 here in A pod need to cop some subs. You know them
4 lil stripper bitches? We got money we can send to
5 wherever you want. Just let me know. Send us word
6 right away, at least by dinner, so that we could get
7 this business done. Send me back some info in my
8 homie's ^Kocher tray. His name is Paul Rivera. But
9 on the real, get back at me whoever and whenever you
10 are. Peace, love, and respect. Creeps."

11 Q. I want to ask you just a few questions
12 about that letter. Who where these ladies you're
13 writing to?

14 A. They're female inmates that work in the
15 kitchen.

16 Q. And was this letter written by you?

17 A. Yes.

18 Q. Was it written in September of 2017?

19 A. Yes.

20 Q. And when you asked for -- well, first of
21 all, who are the homies here in A pod?

22 A. Me and the other cooperating witnesses and
23 the other guys that were housed with us.

24 Q. Who were the other Government witnesses
25 that were living with you at the time you wrote this

1 letter?

2 A. Frederico Munoz; Salamon -- I don't know
3 his last name -- Eugene Martinez; myself; Timothy
4 Martinez; Ruben Hernandez; Paul Rivera. And I
5 forget the other man's name. He's a defendant, but
6 he's not part of the RICO. He's got different
7 federal charges.

8 Q. So he's not a Government witness, or he
9 is?

10 A. He was there with us. He says he's not,
11 but I'm sure he is. He was there with us.

12 Q. And what custodial facility were you in
13 when you wrote this letter?

14 A. Sandoval County jail.

15 Q. The same place where you were accessing
16 the internet on your tablet?

17 A. Yes, ma'am.

18 Q. And what is it that you were trying to get
19 these ladies to give you? I think they're referred
20 to as "subs" and "lil stripper bitches" in the
21 letter.

22 A. Suboxone in the form of strips.

23 Q. When you told them, "We got money," how
24 were you going to pay for this?

25 A. We were going to send money to their

1 people.

2 Q. From your prison commissary accounts?

3 A. No, from whoever we were asked to send
4 money to.

5 Q. You were going to have your family members
6 or friends on the outside send money to their family
7 members or friends?

8 A. Yes.

9 Q. In exchange for them providing you drugs
10 in the prison facility?

11 A. Yes, ma'am.

12 Q. So you were going to engage in additional
13 criminal behavior to facilitate getting drugs into
14 the detention center?

15 A. They were already there.

16 Q. Well, the ladies were; right? The ladies
17 that were getting these notes?

18 A. Yeah, they already had it.

19 Q. But the people on the outside that were
20 going to help facilitate the payments -- they
21 weren't already in prison, were they?

22 A. No.

23 Q. And by helping somebody facilitate the
24 drug trade in a custodial facility, they would incur
25 their own criminal liability; right?

1 A. No, that's on them.

2 Q. And by you asking them to, you're engaging
3 in a conspiracy to distribute drugs in a custodial
4 facility, aren't you?

5 A. I am, yeah.

6 Q. And you're doing all this while you're a
7 Government witness in this case?

8 A. Yes, ma'am.

9 Q. After you promised to tell the truth;
10 right?

11 A. Yes.

12 Q. And not engage in continuing criminal
13 behavior?

14 A. Yes, ma'am.

15 Q. Is this more evidence of your commitment
16 to becoming a full and responsible participant in
17 society?

18 A. No, it doesn't look good.

19 Q. Is this more evidence of your gratitude
20 and respect for law enforcement and corrections
21 employees?

22 A. No.

23 MS. JACKS: Your Honor, I have two
24 certified judgment and sentence orders. I'd ask
25 that those be marked defense next in order.

1 THE COURT: All right. What's the
2 numbers?

3 MS. JACKS: They're Defense Exhibits F, as
4 in Frank, D as in dog. That will be the order dated
5 November 24, 2000, and FE, as in Frank Echo. And
6 that's the order dated May 15, 2013.

7 THE COURT: Any objection to those, Mr.
8 Castellano?

9 MR. CASTELLANO: May I see them, Your
10 Honor?

11 No objection, Your Honor.

12 THE COURT: Any other defendant have any
13 objection? Not hearing any objections, Defendants'
14 Exhibits FD and FE will be admitted into evidence.

15 (Defendants' Exhibits FD and FE admitted.)

16 MS. JACKS: If I could just have a moment.

17 THE COURT: You may.

18 MS. JACKS: Your Honor, I have nothing
19 further at this time.

20 THE COURT: Thank you, Ms. Jacks.

21 Mr. Maynard, are you going to go next?

22 MR. MAYNARD: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. MAYNARD:

25 Q. Mr. Armenta?

1 A. Yes, sir.

2 Q. You recall the events of March 6 and March
3 7, 2014?

4 A. Yes, sir, I do.

5 Q. And on direct and on cross you described
6 those events and the homicide, the murder of
7 Mr. Molina?

8 A. Yes, sir.

9 Q. The four of you that physically directly
10 participated in it -- there were four of you; right?

11 A. Yes, sir.

12 Q. And the plan was that that was going to
13 take place in Mr. Molina's cell?

14 A. Yes, sir.

15 Q. And Timothy Martinez and Mario Rodriguez
16 were going to incapacitate him by choking him,
17 making him unconscious?

18 A. Yes, sir.

19 Q. And then you and Jerry Montoya were to
20 stab him?

21 A. Yes, sir.

22 Q. And all of the events, everything, was
23 going to take place in the cell?

24 A. Yes.

25 Q. And if things had gone according to plan,

1 since this -- furthermore, this happened shortly
2 after a head count?

3 A. Yes, sir.

4 Q. So -- and when would the next head count
5 typically be in that pod?

6 A. Lockdown again was 8:00 for the rest of
7 the night.

8 Q. So a few hours would go by before the next
9 head count?

10 A. Yes, sir.

11 Q. And of course, this all happened in the
12 green pod?

13 A. No, this happened in blue pod.

14 Q. In the blue pod. I'm sorry.

15 A. Yes, sir.

16 Q. Now, Mr. Herrera, Carlos Herrera, was in
17 another pod, the yellow pod?

18 A. Yes, he was in yellow pod.

19 Q. Now, what went wrong with this plan is
20 that Mr. Molina got out of the cell?

21 A. Apparently, yes, that's what happened.

22 Q. But that wasn't part of the plan, was it?

23 A. No.

24 Q. And so the plan obviously was to kill him?

25 A. Yes.

1 Q. Because -- and that was the plan that you
2 participated in?

3 A. Yes, sir.

4 Q. But you didn't intend to kill him?

5 A. No, I didn't want to, and I didn't intend
6 to.

7 Q. But the plan was that he would die in the
8 cell?

9 A. Yes, that's what they told me.

10 Q. Now, the cameras -- there are three
11 cameras. They're not always working, but at least
12 you've seen -- you've heard about some of the camera
13 testimony or the camera evidence in this case;
14 correct?

15 A. Yes, sir.

16 Q. And it turned out -- because Mr. Molina
17 escaped and got into the general area of the pod, it
18 turned out that this killing happened on camera?

19 A. Yes, sir.

20 Q. And you discovered that you were, in fact,
21 on camera, participating?

22 A. I knew I was on camera.

23 Q. Okay. At the moment, did you realize you
24 were on camera?

25 A. Yes, sir.

1 Q. And you found out that in spades the next
2 day when you were interviewed by the authorities
3 over there at the prison?

4 A. Yes.

5 Q. And they pointed out to you how you were
6 dressed and this happened all on camera?

7 A. They didn't actually say: We got you on
8 camera; we got you this; we got you this way. They
9 first approached me: What happened? Where were
10 you? You know, they try to -- I don't know.

11 Q. What did you tell them?

12 A. I told them that I was at the front door,
13 that I didn't have nothing to do with it. I wasn't
14 around when he was getting beat up.

15 Q. And they told you, no, we've got some
16 camera footage?

17 A. No, they didn't say that.

18 Q. They didn't say it the next day?

19 A. No.

20 Q. Because you had an interview on March 8,
21 the day after the murder; correct?

22 A. Yes.

23 Q. And you tried to tell them you were
24 somewhere else, you didn't see anything, you didn't
25 have anything to do with it?

1 A. Yes.

2 Q. And then on March 10, there was another
3 interview?

4 A. Yes, sir.

5 Q. That wasn't very different?

6 A. I didn't say nothing.

7 Q. Right. Now, you knew at this time you
8 were facing prosecution in state court.

9 A. Yes, sir.

10 Q. And likely conviction?

11 A. Yes, sir.

12 Q. And likely a possible life sentence?

13 A. Yes, sir.

14 Q. Or a sentence for a long number of years?

15 A. Yes, sir.

16 Q. Of course, even if you got a life sentence
17 under New Mexico law, your thought was that, well,
18 eventually I might be eligible for parole?

19 A. The thought came to my mind.

20 Q. Right. Now, initially, you were
21 prosecuted in state court. You had an attorney to
22 represent you; correct?

23 A. Yes, sir.

24 Q. And you kind of flip-flopped, you were
25 going to take the whole rap at one point, then you

1 changed your mind about taking the whole rap and so
2 forth?

3 A. Yes, sir.

4 Q. And then you participated in an interview
5 with authorities and with your defense lawyer. And
6 if I understand your testimony correctly, that was
7 about late August or September 1 of 2015?

8 A. Yes, sir.

9 Q. This is about a year and a half after the
10 incident?

11 A. Yes, sir.

12 Q. And your memory is still fairly fresh?

13 A. Yes, sir.

14 Q. And there was a follow-up interview. And
15 this time, this was in mid-September, around
16 September 17, and this time federal authorities were
17 involved?

18 A. Yes, sir.

19 Q. Was that the first time you were aware
20 that federal authorities were involved?

21 A. Yes.

22 Q. Now, you had your lawyer state-side;
23 correct?

24 A. Yes, sir.

25 Q. Representing you?

1 A. Yes, sir.

2 Q. And was it made known to you that in
3 federal prosecution, this type of crime could
4 potentially be eligible for the death penalty?

5 A. Yes.

6 Q. Or life imprisonment?

7 A. Yes, sir.

8 Q. So the stakes raised -- the stakes went
9 up?

10 A. Yes, sir.

11 Q. Now, later on, the death penalty was taken
12 off the table for everyone involved; correct?

13 A. Right.

14 Q. So that interview with the federal
15 authorities took place in mid-September of 2015?

16 A. Yes, sir.

17 Q. Now, you have decided to cooperate,
18 according to your testimony, by this time?

19 A. Yes, sir.

20 Q. And questions came up about other
21 participants?

22 A. Yes, sir.

23 Q. You mentioned the Tim Martinez, you
24 mentioned Mario Rodriguez, you mentioned Mr.
25 Montoya, you mentioned other -- and Mr. Sanchez.

1 You talked about other people in the pod.

2 A. Yes, sir.

3 Q. And then there was another meeting that
4 took place in October of 2015?

5 A. Right.

6 Q. Right. And again, you went over the same
7 territory?

8 A. Yes, sir.

9 Q. The same scenario, the same description of
10 events and involvement of people?

11 A. Yes, sir.

12 Q. A month later, in December of 2015, or a
13 month and a half later, December of 2015, you pled
14 guilty?

15 A. Well, yeah, I was accepting a plea.

16 Q. And then --

17 A. I actually hadn't gotten to the courtroom
18 to do that, but yes, I had already talked with my
19 attorney.

20 Q. I'm sorry. In 2015, you were arrested
21 state-side -- on the federal side; correct?

22 A. Oh, yes.

23 Q. So did you go into federal custody at that
24 time?

25 A. December 3.

1 Q. Of 2015?

2 A. Yes.

3 Q. All right. Now, another entire year went
4 by before in December of 2016 you decided to plead
5 guilty under this plea agreement?

6 A. Yes, sir.

7 Q. And of course, you'd been housed, as you
8 described on cross and direct examination, most of
9 that year; and even after the plea of guilty, you
10 were housed with other people who were cooperating
11 with the Government's investigation?

12 A. Yes, sir.

13 Q. And you knew the investigation was about
14 other members, other alleged members of SNM?

15 A. Yes, sir.

16 Q. And you knew who were the other defendants
17 in the case?

18 A. Yes.

19 Q. You knew what kind of information the
20 Government might be interested in?

21 A. Yes.

22 Q. And you had access to the tablets?

23 A. Yes.

24 Q. And you had access to the other people who
25 were cooperating, so you could talk about the

1 historical facts and talk about your stories and
2 talk about events and put things together?

3 A. I'm sure we could have, but I never did.

4 Q. You had that opportunity?

5 A. I had that opportunity for a long time,
6 yes.

7 Q. And then you pled guilty in December of
8 2016. And if I may, I need to get the Elmo on.

9 I'd like to show you -- I'm digitally
10 challenged. I'm going to show you a page from the
11 plea agreement, and I want to clarify your
12 expectations in the situation that you're in right
13 now and the situation you've been in for the past
14 couple of years.

15 A. Okay.

16 Q. Do you recognize this particular document?
17 Does it have your signature on it?

18 A. Yes.

19 Q. In fact, is that an addendum to the plea
20 agreement that you signed with the Government on
21 December 13 of 2016?

22 A. Yes, sir.

23 Q. Okay. Now, right now, as you're in the
24 courtroom for the past year and a half since you
25 pled guilty, you're subject to life in prison?

1 A. Yes, sir, I am.

2 Q. And you're going to get life imprisonment
3 unless you get the favor from the Government and a
4 favor from the judge?

5 A. Yeah, I could very well get a life
6 sentence still, and I'm prepared for that.

7 Q. Now, right here, according to this -- and
8 tell me if I'm incorrect here -- it says here, "The
9 defendant understands that the decision whether to
10 seek a downward departure for substantial assistance
11 will be made in the sole discretion of the United
12 States Attorney for the District of New Mexico."

13 A. Yes, sir.

14 Q. So in order to get a sentence of less than
15 life, you have to please the people at this table
16 first?

17 A. Yeah, I'm sitting here testifying.

18 Q. They have the discretion, and they have
19 the green light for a sentence of less than life?

20 A. To speak on my behalf, yes, they do.

21 Q. And unless they give you that green light,
22 the judge can't give you less than life?

23 A. He could. Even regardless of their green
24 light or not, it's up to him, ultimately, at the end
25 to say: "Look, you took a life, and for that, I'm

1 going to give you life."

2 And like I said, I'm well prepared to do
3 that. I took a life and I'm going to take my
4 responsibility, however I have to take it.

5 Q. Well, the next sentence says that if the
6 United States does file a motion seeking a downward
7 departure, the decision whether to depart downwards,
8 as well as the amount of any departure, is solely
9 within the discretion of the Court.

10 A. Right.

11 Q. So that says the Court can depart downward
12 and give you less than a life sentence if the
13 Government files the motion for a departure;
14 correct?

15 A. Yes.

16 Q. So without that motion for departure from
17 the Government, you're going to do a life sentence?

18 A. Yes.

19 Q. So you have a keen interest, not just to
20 become a law-abiding citizen, again, but you'd have
21 a keen interest to please the people investigating
22 and prosecuting this case?

23 A. Yes.

24 Q. Now, you claimed on your direct
25 examination that you had a conversation back with

1 Mr. Herrera a couple of years ago, two-and-a-half,
2 three years ago?

3 A. Yes, sir.

4 Q. You didn't mention that conversation in
5 March of 2014 to authorities, did you?

6 A. No, because I didn't have that
7 conversation until after March of 2014.

8 Q. And you didn't mention it after that
9 conversation in September of 2015? Remember, you
10 had an interview, and a transcript was made, and you
11 never indicated that you had a conversation with
12 Carlos Herrera where he said, "I'm the one"?

13 A. Yeah, I didn't bring it up.

14 Q. You didn't bring it up?

15 A. No.

16 Q. And at the next one you didn't bring it
17 up?

18 A. Right.

19 Q. Okay. In fact, you brought it up. You
20 had a meeting on January 22. The Monday before jury
21 selection, you had a meeting with Mr. Acee and with
22 the prosecutors in preparation for your testimony.
23 Do you remember that?

24 A. I remember the meeting. I believe the
25 date is wrong, though.

1 Q. It was in January of this year, just two
2 or three weeks ago?

3 A. Yes.

4 Q. And that's when you mentioned: "Oh, by
5 the way, I had a conversation with Carlos Herrera in
6 June of 2015, and he claims he's the one who decided
7 on the hit."

8 A. I had mentioned Carlos Herrera before.

9 Q. If you had mentioned it, you didn't
10 mention anything about a conversation with him where
11 he claims credit for the hit?

12 A. I know I did. I can't exactly tell you
13 when, what interview, what day it was. But I know I
14 mentioned it.

15 Q. If you had mentioned it, does it seem to
16 you it would appear in some kind of report of
17 investigation?

18 A. Yeah, I believe it is somewhere.

19 Q. You believe it is?

20 A. Yeah.

21 Q. All right. You believe the FBI
22 authorities would take careful notes about
23 interviews and so forth?

24 A. Yes.

25 Q. You're not aware of any such notes. You

1 had access to the investigative reports by the
2 cooperating witnesses, have you not?

3 A. Yes, sir.

4 Q. Okay. You said during the past few
5 months -- in fact, during the past year you've been
6 housed with other people who are going to be
7 testifying here?

8 A. Yes, sir.

9 Q. And your topic of conversation has
10 frequently been about this case?

11 A. No.

12 Q. You haven't been talking about the case?

13 A. I have no desire to talk about the case
14 with the other defendants.

15 Q. Even though you're all on the witness
16 list, you knew the case was coming up, you knew
17 you'd been -- you have a lot at stake in this
18 particular case?

19 A. I understand that. Yeah, I understand I
20 break rules and I don't follow them too well. But I
21 take good advice from my attorney, and I don't speak
22 about anything to anybody.

23 Q. Not even to Timothy Martinez?

24 A. No.

25 Q. Or Roberto Martinez?

1 A. No.

2 Q. And to Benjamin Clark?

3 A. Nope.

4 Q. So if they were to testify that -- they
5 would be incorrect to say that they've discussed the
6 case from time to time with you?

7 A. Yes.

8 MR. MAYNARD: May I have a moment, Your
9 Honor?

10 THE COURT: You may, Mr. Maynard.

11 MR. MAYNARD: No further questions at this
12 time.

13 THE COURT: Thank you, Mr. Maynard.

14 Ms. Fox-Young, are you next?

15 MS. FOX-YOUNG: Thank you, Your Honor.

16 THE COURT: Ms. Fox-Young.

17 CROSS-EXAMINATION

18 BY MS. FOX-YOUNG:

19 Q. Good morning, Mr. Armenta.

20 A. Hello. How are you?

21 Q. You're called Kreaper?

22 A. Yes.

23 Q. Why?

24 A. Because one of my older homies named me
25 that because he said that I was a creep. I was

1 about 17 when he named me that.

2 Q. And you've kept it since then?

3 A. Yes.

4 Q. You arrived at Southern New Mexico
5 Correctional Facility, I think you said, around
6 Christmas of 2013; right?

7 A. Yes, ma'am.

8 Q. And at that time you were in blue pod?

9 A. Yes, ma'am.

10 Q. And I think you said that you knew some of
11 the folks who were in yellow pod; right?

12 A. A couple of the people. Well, not knew
13 them. Just you, know by, their name I know who they
14 were.

15 Q. You knew them by reputation?

16 A. Yeah.

17 Q. Was Billy Cordova in there?

18 A. Yes.

19 Q. Do you know Billy Cordova?

20 A. Yes, I do.

21 Q. And did you have occasion to talk with
22 Billy Cordova when you were at Southern New Mexico
23 Correctional Facility in 2013, 2014?

24 A. A couple of times.

25 Q. Did you talk to him about past murders

1 he'd been involved in?

2 A. No.

3 Q. Did he ever brag to you about murders he'd
4 been involved in?

5 A. No.

6 Q. Never happened?

7 A. No.

8 Q. Would you consider him to be a friend?

9 A. No.

10 Q. Were you later housed -- I'm going to skip
11 forward. You were moved to the North, you were
12 moved to PNM; right?

13 A. Yes, ma'am.

14 Q. Were you housed with Billy Cordova there?

15 A. Yes, ma'am.

16 Q. Okay. So when you arrived at Southern New
17 Mexico Correctional Facility and you were in blue
18 pod, do you remember seeing Rudy Perez?

19 A. Yes.

20 Q. And he was pretty sick at that time, was
21 he not?

22 A. Yes.

23 Q. Was he mainly in his cell while you were
24 there?

25 A. Most of the time, yes.

1 Q. And so that was about maybe a
2 two-and-a-half month period before the murder that
3 you were there in blue pod with Mr. Perez?

4 A. Yes.

5 Q. Almost never saw him?

6 A. I saw him every day. I mean, he would
7 come out. But you know, the majority of the time he
8 was in his room.

9 Q. And do you remember that he was taking
10 medications at that time?

11 A. Yes, ma'am.

12 Q. Do you remember the nurse coming to bring
13 him medication?

14 A. Yes, ma'am.

15 Q. You know about what kind of sicknesses he
16 had?

17 A. I'm not aware the exact sicknesses he had,
18 but I know that Mr. Perez was pretty sick, and still
19 is.

20 Q. And you knew at that time that he had just
21 recently been released from a long hospital stay;
22 right?

23 A. Yes, I had heard something about it, yes.

24 Q. And you knew that he had some trouble
25 getting around?

1 A. Yes.

2 Q. He needed a walker to get around; right?

3 A. Yes.

4 Q. He couldn't walk on his own?

5 A. No.

6 Q. You talked a little bit about your
7 interactions with Mario Rodriguez, Blue, on March 6
8 and 7. You talked about the fact that he kind of
9 forced you into participating in this act; right?

10 A. Not Blue. Mr. Sanchez.

11 Q. Mr. Rodriguez. I'm asking about
12 Mr. Rodriguez.

13 A. He didn't make me do anything. He didn't
14 tell me that I had to go put in work. He didn't
15 tell me that I had to go kill Javier, none of that.
16 He gave me the shank.

17 Q. I'm not asking what he didn't tell you.
18 I'm asking about how you did interact with him.

19 So let's start at the beginning. I think
20 you have said that on March 6, you saw him
21 interacting with somebody with regard to preparing
22 for this murder; is that right?

23 A. He was talking with somebody in yellow pod
24 through the door.

25 Q. Okay. And in fact, when you witnessed him

1 talking to somebody in yellow pod, after Mr. Urquizo
2 and Mr. Varela arrived, you thought you might be in
3 danger, didn't you?

4 A. Yeah.

5 Q. You did, and that was because of your past
6 sex offense with your stepdaughter?

7 A. Yes.

8 Q. You thought he might be coming after you?

9 A. It was possible.

10 Q. It was possible? That was in your mind at
11 that time.

12 A. Oh, yeah.

13 Q. And you also knew about Mr. Rodriguez's
14 past sex offense; right?

15 A. Yes.

16 Q. Did he take a particular interest in your
17 sex offense?

18 A. He didn't know about it at that time.
19 Later on is when -- after I spoke with Montoya's
20 attorney, that's when they found out that it was --
21 in fact, I had some arrests for sexual offense.

22 Q. Well, let's go back to March 6. When you
23 saw Mr. Rodriguez engineering something, you thought
24 he was after you, I think you just testified to
25 that, because of the sex offense; right?

1 A. That wasn't until the 7th.

2 Q. Oh, on the 7th?

3 A. Yes.

4 Q. So in your mind, on the 7th, you thought
5 Mr. Rodriguez was coming after you because of your
6 criminal past?

7 A. Not extensively, not like I was, "Oh, my
8 God, I'm scared, he's going to get me because they
9 found out about this." It crossed my mind. Because
10 they have -- I don't know how they do it, but they
11 got a way of finding out things.

12 Q. Well, it didn't just cross your mind; it
13 was specifically on your mind --

14 A. Yeah, but --

15 Q. -- that he could be coming after you
16 because of your past sexual contact; right?

17 A. Yeah.

18 Q. And so as things proceeded on the 7th and
19 you interacted with Mr. Rodriguez, I'd like to look
20 at Government's Exhibit 757. Mr. Armenta, let's
21 take a look at this letter that I know you wrote
22 after the fact, and you've testified about it and
23 about the contents of it. And I think -- correct me
24 if I'm wrong, but I think your testimony has been
25 that some things in that letter were true and some

1 things were not. And this is a letter that you
2 wrote to Mr. Montoya?

3 A. Yes, ma'am.

4 Q. And this letter was intercepted; right?
5 It never reached Mr. Montoya?

6 A. Right.

7 Q. But you wrote it to Mr. Montoya, and your
8 purpose for writing the letter was to try to get Mr.
9 Montoya to get on the same page with you and also to
10 become a Government witness; right?

11 A. Yeah.

12 Q. And you tell him in this letter, "but I
13 had to tell the truth about how it all went down
14 from you picking up your hands."

15 Let's talk about that. Tell me when he
16 picked up his hands, and did you see that?

17 A. I seen it. I was standing on the stairs
18 and that's when I see Mario Rodriguez walk into Mr.
19 Montoya's room, and he pulled out something, which
20 was the shank, and he gave it to him, and Jerry
21 Montoya picked his hands up like --

22 Q. He held his hands over his head?

23 A. Not like that. Like, whoa. He didn't
24 know what was going on at that minute. So he was,
25 like -- he seen him pull out the shank. He was,

1 "Oh, shit, like, what's up," you know?

2 Q. He was threatened?

3 A. He was startled.

4 Q. He felt threatened?

5 A. Yeah, I would say so.

6 Q. That was your perception?

7 A. Yeah.

8 Q. And you go on, when Blue handed you your
9 piece -- that's what you watched?

10 A. Yes.

11 Q. "To the threats of your life and mine."
12 And so are there some other ways in which Rodriguez
13 threatened Mr. Montoya's life on that day, other
14 than just coming in with a shank and approaching
15 him?

16 A. Later, I found out with Montoya that he
17 made him do it, made Montoya do it as well.

18 Q. He threatened Montoya, he told him: "You
19 have to do this"?

20 A. Yeah.

21 Q. And he also threatened you?

22 A. No, Mr. Sanchez threatened me.

23 Q. You say here in this letter, "When Blue
24 handed you your piece to the threats of your life
25 and mine," are you talking about Blue threatening

1 your life?

2 A. No, just the threats in general.

3 Q. Okay. Mr. Armenta, after the fact, after
4 the murder, after the stabbing, you described how
5 Mario Rodriguez came up with the idea of you taking
6 responsibility solely for this murder; right?

7 A. Yes.

8 Q. And he told you -- and I'm not trying to
9 elicit any hearsay by Mr. Rodriguez -- but he came
10 up with this idea of writing a letter, and you wrote
11 it, and you've gone over that letter; right?

12 A. The idea was him and me taking the blame.
13 I came up with the letter with Mr. Martinez and Mr.
14 Montoya, we talked about it. But Rodriguez, Blue,
15 he's the one that told me I should take the blame
16 because I was the one that got him charged.

17 Q. Right, and so you felt that you needed to
18 do that?

19 A. I was under orders.

20 Q. Let me ask my question, Mr. Armenta. You
21 felt that you needed to do that in order to satisfy
22 Mr. Rodriguez; is that right?

23 A. Yeah.

24 Q. Because what would happen if you wouldn't
25 have done that?

1 A. I probably would have gotten killed, too.

2 Q. So you were scared of him?

3 A. Yes.

4 Q. You were scared of him on March 6, 2014?

5 A. Yeah, I guess. I mean, we weren't beefing
6 or anything, so it was -- we were okay. We were
7 cool.

8 Q. But you were scared of what would happen
9 if you didn't take the actions that he wanted you to
10 take?

11 A. Definitely.

12 Q. And that's something that continued
13 through the day of the murder, and well after the
14 murder to the time that you drafted that letter; is
15 that right?

16 A. Yes, ma'am.

17 Q. Now, you talked about going up to the
18 Penitentiary of New Mexico and being there with Mr.
19 Montoya; right?

20 A. Yes.

21 Q. And Mr. Rodriguez?

22 A. Yes, ma'am.

23 Q. And Mr. Martinez?

24 A. Yes, ma'am.

25 Q. And Mr. Cordova was there, too?

1 A. Yeah, he came at a later date, but he came
2 back, yes.

3 Q. Okay. So you and the other three
4 individuals who participated in the hands-on killing
5 of Mr. Molina were up there together?

6 A. Um-hum.

7 Q. And also Mr. Cordova was there?

8 A. He was. Yeah, he was there.

9 Q. And you all discussed, did you not, what
10 had happened during the course of the murder?

11 A. With Billy?

12 Q. Yes.

13 A. No.

14 Q. Just the four of you discussed it?

15 A. Yes.

16 Q. Did you discuss it with anybody else?

17 A. No.

18 Q. And were you all housed together at PNM?

19 A. Martinez -- Mr. Martinez and Montoya and
20 Rodriguez were in W pod. At first they were -- we
21 were in 3-A. So they were in Q pod. We were -- I
22 was in R pod. And then we got moved to 3-B, the
23 Unit 3-B, where they went to W pod, those three.
24 And I was in X pod. A couple weeks after that is
25 when Mr. Billy Cordova came.

1 Q. And if you were not all housed together in
2 neighboring cells, how was it that you had occasion
3 to discuss the murder together?

4 A. We would go outside and get next to each
5 other in the rec yards.

6 Q. Okay. And so everybody was able to do
7 that together when you had rec?

8 A. Not all the time. You had to talk to the
9 COs, you know, say, "Hey, I want to talk to this
10 guy. Can you put me next to him?"

11 Most of the time they didn't do it, but
12 sometimes they would oblige.

13 Q. Okay. You know, don't you, that there
14 were a lot of rumors in 2014 and 2015 about what had
15 happened to Javier Molina?

16 A. Yes.

17 Q. And those rumors were flying around PNM?

18 A. Yes.

19 Q. And you know sitting here today, don't you
20 that that's how Mr. Billy Cordova learned about what
21 may or may not have happened?

22 A. I'm not too sure on the facts of what he
23 learned of what happened.

24 Q. You don't personally know?

25 A. I don't sit there and talk with the man.

1 Like I said, he's not my friend. We are
2 acquaintances.

3 Q. It hasn't come to your attention since
4 then that that is how Mr. Cordova learned these
5 rumors about the murder?

6 A. Yeah.

7 Q. And at the time, were you aware that there
8 were rumors that Mr. Perez was talking to the
9 Government?

10 MR. CASTELLANO: Objection, calls for
11 hearsay.

12 Q. If you were aware?

13 MR. CASTELLANO: Objection, calls for
14 hearsay.

15 THE COURT: Lay a foundation how he might
16 know this, and we'll see whether it's coming from
17 other sources.

18 BY MS. FOX-YOUNG:

19 Q. Mr. Armenta, you testified that you were
20 aware that there were lots of rumors going on at PNM
21 about what had happened to Javier Molina; right?

22 A. Yes, ma'am.

23 Q. And about who had participated in the
24 rumor?

25 A. Yes, ma'am. Yeah, I was there. So yeah,

1 I mean, I can confirm or deny any facts or rumors
2 that were being spread around.

3 Q. You were there and you were having these
4 conversations?

5 A. Yes, ma'am.

6 Q. And so people at PNM were talking about
7 how many times you stabbed Javier Molina?

8 A. Well, nobody actually knew that. They
9 didn't know exactly the detailed facts of the case.

10 Q. Nobody but you and Jerry Montoya and Mario
11 Rodriguez and Timothy Martinez?

12 A. Yes.

13 Q. And there were also rumors about how many
14 times Mr. Montoya stabbed Javier Molina?

15 A. Like I said, there were rumors, but nobody
16 knew exactly how many.

17 Q. And was there discussion of Tim Martinez
18 coming behind Javier Molina and choking him out?

19 A. Yes.

20 Q. And was there also discussion of
21 Mr. Molina trying to pry Tim Martinez' hands off of
22 his neck?

23 A. I don't think so, because when I witnessed
24 that happen, he did not put up a fight at all.

25 Q. Well, that's because Mario Rodriguez was

1 holding his arms down; right?

2 A. No.

3 Q. You don't recall that?

4 A. No, I don't. Mario's back was to me. So
5 I don't remember seeing him anything -- doing
6 anything like that.

7 Q. Okay. And so anyway, there was a lot of
8 discussion after you were transported to PNM about
9 the details of the murder; right?

10 A. Some.

11 Q. And was there also discussion of who might
12 and might not be talking to the Government?

13 A. At the time, no. They accused me, because
14 when the discovery -- when we finally got the
15 discovery, my statement was there where I said that
16 I was standing by the front door, and that I -- when
17 he was getting beat up, and this and that. So they
18 were trying to say that I was making statements.

19 Q. People thought you were talking to the
20 Government?

21 A. Yes.

22 Q. And you were?

23 A. At that time, no. Not till later. Not
24 till later is when I started talking to the
25 Government.

1 Q. And you heard about that when you were at
2 PNM?

3 A. Yes.

4 Q. And you discussed it with other people?

5 A. Yes.

6 Q. And at that time you didn't want to appear
7 weak; right?

8 A. Well, I really didn't talk to anybody
9 other than Eric Duran. He was my neighbor, so --

10 Q. I thought you also talked to all the other
11 killers.

12 A. Well, out in yard. That's an hour. And I
13 barely go outside maybe twice a week.

14 Q. Right. And you talked on Friday, did you
15 not, about how important it is not to appear weak
16 with all those other guys?

17 A. Of course.

18 Q. You talked about the fact that there is
19 not a CO or a nurse or a cop who could get in the
20 way of one of those guys killing you if they want
21 to; right?

22 A. Yes, ma'am.

23 Q. So when the rumors were circulating up at
24 Santa Fe that you were a Government witness, you
25 didn't want to appear weak; right?

1 A. Right.

2 Q. You had to do something to protect
3 yourself in the face of those rumors?

4 A. If it came down to it, of course, I would
5 defend myself.

6 Q. And sometimes was that big talk?

7 A. No. I'm not going to let somebody just
8 kill me without a fight. I mean, if they kill me,
9 they kill me. But I'm going to fight. I'm not just
10 going to sit there and let them.

11 Q. Okay. So you said there were rumors about
12 you being a Government witness at that time. Do you
13 personally know if there were rumors about Mr. Rudy
14 Perez being a Government witness?

15 A. No.

16 MR. CASTELLANO: Hearsay.

17 MS. FOX-YOUNG: Your Honor, it's not
18 offered to prove the truth.

19 THE COURT: Well, I think it is being
20 offered. Sustained.

21 BY MS. FOX-YOUNG:

22 Q. And so how long did you stay at PNM?

23 A. I got there in September 2014, and I
24 stayed there until October of 2015.

25 Q. And then where did you go?

1 A. I went -- I came back down to Southern for
2 a court hearing. That was when I was coming down to
3 plead guilty for the state.

4 Q. And where were you around the time that
5 Mr. Munoz drafted that letter to the warden for the
6 party that you're all going to have?

7 A. We were back at the North penitentiary.

8 Q. So when did you get back to the North?

9 A. May of 2016.

10 Q. And that's when you started rooming with
11 Mr. Roy Martinez?

12 A. No, Mr. Martinez didn't come until
13 September of 2016.

14 Q. Okay. And I think you said when you were
15 answering some questions from Ms. Jacks that it
16 wasn't until December, about December of 2016 that
17 you figured out how to get on the internet and
18 really make use of your tablet in a number of ways
19 that were not authorized?

20 A. That was -- we didn't know about the
21 internet until we got to Sandoval County. It was
22 reset, like, you know, the end of 2016 or '17,
23 beginning of 2017. January, something like that.

24 Q. But you actually did have some internet
25 activity in the fall of 2016, did you not?

1 A. No.

2 MS. FOX-YOUNG: Your Honor, may I approach
3 the witness?

4 THE COURT: You may.

5 BY MS. FOX-YOUNG:

6 Q. Mr. Armenta, do you remember making these
7 Facebook posts in September 2016?

8 A. Yeah. My fiancée did that.

9 Q. Oh, your fiancée did it for you?

10 A. Yes.

11 Q. And she would log into your Facebook
12 account?

13 A. Yes.

14 Q. And she posted, "After everything I've
15 been through, I'm still smiling, not because I'm
16 strong, but because I'm crazy"?

17 A. Yes.

18 Q. "Now, that should scare you"?

19 A. Scare me?

20 Q. That was the post. She said, "Because I'm
21 crazy, now that should scare you"?

22 A. She put all that, yes.

23 Q. And you asked her to do that?

24 A. No, I told her just to beef it up, do
25 whatever she had to do.

1 Q. Do whatever she had to do, why?

2 A. Because I asked her to.

3 Q. And so when did you actually take control
4 of your Facebook account and start posting yourself?

5 A. January 2017. Early February, something
6 like that.

7 Q. Okay. And so that was well after the time
8 when you said you had rejected all those beliefs and
9 values of the SNM?

10 A. Yes.

11 Q. And you had rejected the thug life at that
12 point?

13 A. Yes.

14 MS. FOX-YOUNG: Your Honor, I move the
15 admission of Defendants' FF.

16 MR. CASTELLANO: I don't know what it is,
17 Your Honor.

18 THE COURT: Why don't you take a look at
19 it?

20 MR. CASTELLANO: I object, based on
21 hearsay grounds and foundation.

22 THE COURT: Why don't y'all approach and
23 let me look at the exhibit here.

24 (The following proceedings were held at
25 the bench.)

1 THE COURT: What do we have here?

2 MS. FOX-YOUNG: Your Honor, this is a
3 Facebook post of Mr. Armenta's. It's offered to
4 show bias and also to impeach him. He was done with
5 the thug life as of January. This is from Armenta.
6 We can lay the foundation in terms of the dates.
7 The dates are already in in terms of when he was
8 using the tablet. And I can have him authenticate
9 his profile. It's on the second page that she
10 posted as well as the subsequent postings.

11 THE COURT: I think you can certainly
12 impeach him with it. But I'm not sure that any
13 statements should be coming in if you're trying to
14 get them in for the truth of the matter.

15 MR. CASTELLANO: I'm also concerned that
16 there are personal photos in there of the defendant.

17 THE COURT: If they redact out the
18 personal photos, would that be all right with the
19 Government, if they redacted them?

20 MR. CASTELLANO: It's an additional
21 grounds for the objection.

22 MS. FOX-YOUNG: Your Honor, he posted this
23 on the internet for all to see.

24 THE COURT: I think you can certainly
25 question him about it. I think you can impeach him

1 with it. It's a little hard to tell whether it's
2 impeachment material. But I assume that's what
3 you're trying to do with it. So I won't let the
4 exhibit in, but I'll let you impeach him.

5 MS. FOX-YOUNG: Just for the record, I
6 think it also shows bias in the same way the video
7 does, his misuse of the tablets.

8 THE COURT: You can impeach him with it,
9 but it's not going to come into evidence.

10 MR. CASTELLANO: I didn't see a Bates No.
11 on there.

12 MS. FOX-YOUNG: It's not Bates; it's from
13 the tablets.

14 MR. CASTELLANO: Oh, it's from the
15 tablets?

16 MS. FOX-YOUNG: Can I publish it?

17 THE COURT: All right.

18 (The following proceedings were held in
19 open court.)

20 THE COURT: Ms. Fox-Young.

21 MS. FOX-YOUNG: Thank you, Your Honor.

22 BY MS. FOX-YOUNG:

23 Q. So Mr. Armenta in January of 2016 you were
24 done with the thug life?

25 A. I was done. Yeah, I'm not trying to live

1 that way anymore.

2 MS. FOX-YOUNG: Your Honor, may I
3 approach?

4 THE COURT: You may.

5 BY MS. FOX-YOUNG:

6 Q. Do you recognize this document?

7 A. Yes.

8 Q. Is this a printout from your Facebook
9 account?

10 A. Yes.

11 Q. And Mr. Armenta, do you see this posting
12 from April 16, 2017?

13 A. Yes, ma'am.

14 Q. And I think it was your testimony that
15 that's about the time that the tablets got seized;
16 right?

17 A. Yes, ma'am.

18 Q. It was almost your last posting.

19 A. Yes, ma'am.

20 Q. Do you see where you said, "Thug life,
21 baby"?

22 A. Yeah.

23 Q. That's you?

24 A. Yeah.

25 Q. So you weren't done with the thug life?

1 A. I was done with it because of Tupac. He
2 had always represented the thug life. So that was a
3 Tupac thing.

4 Q. He's an idol of yours?

5 A. He's the best rapper ever to live.

6 Q. You also posted a photograph of yourself
7 as a profile picture from jail; right?

8 A. Yes, ma'am.

9 Q. How did you take that picture?

10 A. With the tablet.

11 Q. While you're in your underwear?

12 A. No. It was without a shirt.

13 Q. Did you also communicate with individuals
14 through your Facebook page?

15 A. My fiancée.

16 Q. The party that was held two days before
17 Christmas in 2016 that you guys asked for the
18 banquet?

19 A. Yes, ma'am.

20 Q. Do you remember who was there?

21 A. Yes.

22 Q. Who was there?

23 A. A lot of people. Me, my family, my mom,
24 my nieces, my fiancée, Benjamin Clark, his mom, his
25 fiancée, and --

1 Q. He's another Government witness?

2 A. Yes. Robert Martinez.

3 Q. Another Government witness?

4 A. Yes. All these are Government witnesses.

5 Q. Billy Cordova?

6 A. Billy Cordova, Gerald Archuleta, Roy

7 Martinez, Paul Rivera, and Javier Rubio.

8 Q. Anybody who worked for the Government?

9 A. Yes.

10 Q. Who was there for the Government?

11 A. Bryan Acee, Ms. Nancy showed up. I don't
12 know.

13 Q. Would that be Nancy Stemo, another FBI
14 agent?

15 A. Yes, ma'am.

16 Q. Who else?

17 A. I believe it was just them two.

18 Q. Any of the prosecutors?

19 A. No.

20 Q. You invited the prosecutors?

21 A. Yes.

22 Q. And anybody from the prison? Did the
23 Warden come?

24 A. Yes.

25 Q. Warden Franco?

1 A. Warden Franco, yes.

2 Q. And Mr. Marcantel?

3 A. No, he did not go.

4 Q. Jerry Roark?

5 A. I don't think he was there either.

6 Q. Anybody else from the prison?

7 A. No -- STIU members, Mr. Franco, and just
8 staff that were there.

9 Q. Mr. Sapien?

10 A. Mr. Sapien, yes.

11 Q. Mr. Cupit?

12 A. Cupit.

13 Q. Anybody else?

14 A. No.

15 Q. And did you have occasion to talk to Agent
16 Acee and Agent Stemo at that party?

17 A. I introduced them to my mother and to my
18 fiancée. Yes, I did.

19 Q. Did you talk about any of the details of
20 the Molina murder at that party?

21 A. No.

22 Q. Did you talk to anybody at that party
23 about any of the details of the Molina homicide?

24 A. Definitely not.

25 Q. Definitely not?

1 A. No.

2 Q. Did you talk about the contact visits that
3 you were receiving at that party?

4 A. No.

5 Q. Did you have a contact visit at that
6 party?

7 A. Yes.

8 Q. Did you have a contact visit where you
9 were able to engage in sexual activity at that
10 party?

11 A. No.

12 Q. Are you sure?

13 A. Positive.

14 Q. And did you have occasion to talk to the
15 warden at that party?

16 A. Yes.

17 Q. About how you'd reformed yourself?

18 A. No, he talked to me about my sister,
19 because they denied her coming in. They had
20 canceled her visits or took her off my visiting list
21 because of an incident that happened with my
22 brother, like, a year or two before.

23 Q. Okay. And you all had pizza together?

24 A. Yes.

25 Q. And sat around the table and celebrated?

1 A. They all left. They said a few words,
2 they talked to our family, let them know that we
3 came a long way from living that life that we were
4 living; and what we're doing now it's honorable,
5 it's a good thing, and --

6 Q. So they didn't know that at that same time
7 you were using your tablets to search for teenage
8 porn?

9 A. I wasn't searching for teenage porn.

10 Q. And that you were using your tablet to get
11 on Facebook?

12 A. We didn't have internet at the prison.

13 Q. And they didn't know about the contact
14 visits that you'd been having?

15 A. No, they did not.

16 Q. And were you using Suboxone at that party?

17 A. No.

18 Q. Was anybody?

19 A. To my knowledge, no.

20 Q. Was Timothy Martinez at that party?

21 A. No.

22 Q. Was he invited?

23 A. He wasn't there.

24 Q. Subsequently, I think you said you were
25 housed at Sandoval County?

1 A. Yes, ma'am.

2 Q. And is that where you wrote the letter to
3 the lunch ladies?

4 A. Yes.

5 Q. And at Sandoval County you know that
6 Timothy Martinez was dealing Suboxone; right?

7 A. He wasn't dealing like a big old drug
8 dealer. I mean, he got some, he got some, and he
9 would always have extra, and we'd buy from him.

10 Q. You were buying it from him?

11 A. I bought a few times from him.

12 Q. And Roy Martinez was buying from him?

13 A. Yes.

14 Q. And that went on until when?

15 A. Till when we all left from Sandoval
16 County. It happened at different times. Not all
17 the time. It wasn't a steady thing.

18 Q. What month did you leave Sandoval County?

19 A. September.

20 Q. So from May until September of 2017, you
21 were there?

22 A. No. From January of 2017 to September of
23 2017.

24 Q. Okay. So for that nine-month period
25 Timothy Martinez was dealing Suboxone?

1 A. Every once in a while.

2 Q. And you were buying?

3 A. Yes.

4 Q. And Roy Martinez was buying for that
5 nine-month period?

6 A. Yeah.

7 Q. Who else was buying?

8 A. Everybody.

9 Q. And who else was selling?

10 A. Nobody.

11 Q. Just Timothy Martinez?

12 A. Yeah.

13 Q. It was pretty easy to get?

14 A. Everybody else would do theirs. If they
15 got it, they would do it. They ain't going to sell
16 it.

17 Q. Timothy Martinez was the only one bringing
18 it in?

19 A. He wasn't bringing it in. We would buy it
20 from the pods next door, from the women, or
21 whatever. And then most of us would just do ours.
22 If we bought it, we would do it all. He would do a
23 little bit, but he wasn't the type that is steady
24 doing it. So he would save some. And if anybody
25 else wanted some later on in the days or weeks, he

1 would have extra, and we would make a deal and buy
2 it off him.

3 Q. And Mr. Timothy Martinez is also a
4 Government witness; is that right?

5 A. Yes, ma'am.

6 Q. Do you know if he's been prosecuted for
7 dealing Suboxone, or charged?

8 A. I have no aware of that. I'm not aware of
9 that.

10 Q. And so for this nine-month period when you
11 were using Suboxone in Sandoval County, were you
12 also meeting with the Government?

13 A. I hadn't met with them since -- I haven't
14 seen them since the banquet at the Penitentiary of
15 New Mexico.

16 Q. You didn't talk to Special Agent Acee?

17 A. I sent him an email.

18 Q. When is the last time you used Suboxone?

19 A. December of last year.

20 Q. A month and a half ago?

21 A. Yeah.

22 Q. Where were you?

23 A. I was in Otero County jail.

24 Q. Who did you that Suboxone from?

25 A. Guys that were coming in, strangers.

1 Q. Government witnesses?

2 A. No.

3 Q. I think you said -- correct me if I'm
4 wrong -- but at the time that you participated in
5 the killing of Javier Molina, you had about 40 days
6 left before you were going home?

7 A. Just about.

8 Q. Do you know how much time you have left on
9 your sentence right now? I assume you lost some
10 good time.

11 A. Yeah, that case is done, it's over with,
12 that sentence. But while I was pending this murder
13 case, I went -- I was fighting a trafficking case
14 out of Bernalillo County.

15 Q. What were you excused of trafficking?

16 A. Heroin. And I ended up taking a plea for
17 12 years.

18 Q. And so you have a 12-year sentence?

19 A. Yes.

20 Q. And how much remains on that?

21 A. Until -- with good time, until May of
22 2020.

23 Q. And so you've not yet been sentenced in
24 this case?

25 A. No, ma'am, I have not.

1 Q. But if you do, if the Government does find
2 that you provided substantial assistance and they
3 move for a downward departure, they move to reduce
4 your sentence, you'd be facing a concurrent
5 sentence; right?

6 A. Well, to my knowledge, I thought federal
7 and state are consecutive once -- if I'm -- I mean,
8 I'm doing a sentence already, so yeah, I guess it
9 would be concurrent.

10 Q. So if you are sentenced and given
11 concurrent time in this case?

12 A. Yes, ma'am.

13 Q. And given -- say -- you said -- did you
14 say early 2020?

15 A. Yes.

16 Q. May of 2020?

17 A. Yes.

18 Q. You scheduled it out?

19 A. Yes.

20 Q. Say you get sentenced in May of 2018 and
21 you get a two-year sentence in this case, you'd be
22 out on the streets in May of 2020; is that right?

23 A. Yes, ma'am.

24 Q. If it's concurrent?

25 MS. FOX-YOUNG: No further questions, Your

1 Honor.

2 THE COURT: Thank you, Ms. Fox-Young.

3 Ms. Duncan.

4 MS. DUNCAN: May I have a moment, Your
5 Honor?

6 THE COURT: Certainly.

7 CROSS-EXAMINATION

8 BY MS. DUNCAN:

9 Q. Good morning.

10 A. Good morning.

11 Q. I just have a few questions for you. I
12 wanted to follow up on your testimony regarding Roy
13 Martinez resetting his tablet.

14 A. Okay.

15 Q. And then you asked him to reset your
16 tablet?

17 A. Yes, ma'am.

18 Q. And did he do that?

19 A. Yes, ma'am.

20 Q. And to your knowledge, did Mr. Martinez
21 reset any other of the Government witnesses' tablet?

22 A. Most of ours, all of ours.

23 Q. So he personally reset the tablets for the
24 other Government witnesses?

25 A. Yes.

1 Q. And do you know who -- whose tablet did he
2 reset?

3 A. It was his own, Frederico Munoz, Benjamin
4 Clark, Paul Rivera -- no, Paul Rivera's was not till
5 later. Yeah, that's it.

6 Q. What about Gerald Archuleta?

7 A. Oh, yes, Gerald Archuleta. Yes, ma'am.

8 Q. And Timothy Martinez?

9 A. Timothy Martinez' didn't get reset until
10 Sandoval County.

11 Q. And do you know who reset Timothy
12 Martinez'?

13 A. I believe it was Roy, too. He was the one
14 that knew how to do it. He figured it out. So he
15 was -- yeah, he did it.

16 Q. And do you know when did Timothy Martinez
17 reset -- or when did Roy Martinez reset Timothy
18 Martinez' tablet?

19 A. It was in Sandoval County, so I would say
20 after January 13, when we got transported over
21 there.

22 Q. You also said that Paul Rivera's tablet
23 was reset?

24 A. Yes.

25 Q. Was that set at Sandoval County?

1 A. Yes.

2 Q. And also by Roy Martinez?

3 A. Yes.

4 Q. You were asked some questions about who
5 you were housed with at different time periods. And
6 I want to clarify. I wanted to understand exactly
7 which of the other Government witnesses you've lived
8 with.

9 A. Okay.

10 Q. So if we could start with when you decided
11 to cooperate in 2015. So that was this February or
12 March of 2015; correct?

13 A. Yes, ma'am.

14 Q. At that time you were housed with Eric
15 Duran; correct?

16 A. Yes.

17 Q. Was there anyone else who is a cooperating
18 or Government witness housed with you at that time?

19 A. Robert Martinez and Roy Martinez.

20 Q. And were you in the same pod with Roy and
21 Robert Martinez?

22 A. Yes.

23 Q. Eventually, were you moved out of that
24 pod?

25 A. Yes. I went to a court hearing in June --

1 or the end of May; you know, it dragged on into
2 June. But I moved out of that pod for that. And
3 then when I came back, I was in W pod.

4 Q. And for how long were you in W pod?

5 A. Two and a half months, two months.

6 Q. Were any of the Government witnesses
7 housed with you in W pod?

8 A. Yes, Jerry Montoya and Lupe Urquizo.

9 Q. After -- so you said that you were there
10 for two and a half months. Where did you go when
11 you moved out of W pod?

12 A. I went to the Dona Ana County Detention
13 Center to have that meeting with Mr. Montoya's
14 attorney and the district attorney and my attorney.

15 Q. And were any Government witnesses housed
16 in Dona Ana County with you?

17 A. Benjamin Clark was there on a different
18 case. He was pleading out, or something that
19 happened there.

20 Q. And were you in cells where you could
21 communicate with each other?

22 A. No, he was about four or five doors down
23 from me.

24 Q. Were you ever able to communicate with
25 Benjamin Clark while you were at Dona Ana County?

1 A. Every once in a while. We were usually on
2 the phone when we had our time-outs, so there was a
3 couple of minutes where we'd get a couple of words
4 in. But that's about it.

5 Q. So when did you leave Dona Ana County
6 Detention Center?

7 A. I would say like three or four days after
8 the interview with the attorneys.

9 Q. In September of 2015?

10 A. Yes, ma'am.

11 Q. Where did you go?

12 A. Back to the North, Santa Fe.

13 Q. And what pod -- what housing unit and pod
14 did you go back to?

15 A. I went to 2-A pod. 2J. Unit 2-A. J pod.

16 Q. And were any of the Government witnesses
17 housed with you at that time?

18 A. No.

19 Q. How long were you in 2-A, J pod?

20 A. Two months.

21 Q. So when did you leave J pod?

22 A. When I got transported back down here to
23 Las Cruces. But I went to Southern New Mexico
24 Correctional Facility.

25 Q. Do you recall approximately when that was?

1 A. It was in November.

2 Q. And during the time that you were in J
3 pod, there were no other Government witnesses with
4 you?

5 A. I didn't talk to anybody in there. I
6 don't know who was there. I don't know anybody's
7 name or anything like that. I got moved to I pod
8 later on, after J pod. I was there for about a
9 month in J pod. Then I went next door to I pod,
10 which was the RPP Program pod, which is the drop-out
11 pod. And Benjamin Clark was in there.

12 Q. Let me just understand. So you were in J
13 pod for about a month. Then you got moved to I pod.
14 Then from I pod you went back to Dona Ana County; is
15 that correct?

16 A. To Southern New Mexico.

17 Q. To Southern New Mexico Correctional
18 Facility?

19 A. Yes.

20 Q. So when you were in I pod, was any other
21 Government witness or any witness other than
22 Benjamin Clark in that pod with you?

23 A. Nobody.

24 Q. So then you get to Southern New Mexico
25 Correctional Facility approximately when?

1 A. In November 2015.

2 Q. And were there any Government witnesses
3 housed with you in Southern New Mexico Correctional
4 Facility?

5 A. No.

6 Q. How long were you at that facility?

7 A. I was there for a month.

8 Q. So you left Southern New Mexico in about
9 December 2015?

10 A. December 3, the day that the indictment
11 came down.

12 Q. And then where did you go?

13 A. For the night we went to MDC county jail,
14 slept; went and seen the judge the next day. Then
15 we were all -- cooperators, defendants -- we were
16 all transported to Otero County prison facility.

17 Q. And when you were in Otero County prison
18 facility, were you housed with any other Government
19 witnesses?

20 A. Yes, I was next to Robert Martinez, Ruben
21 Hernandez, and Benjamin Clark.

22 Q. Were you able to communicate with any
23 other Government witnesses besides those three?

24 A. No.

25 Q. How long were you in Otero County

1 Detention Center?

2 A. Four days.

3 Q. And where did you go after that?

4 A. To Grants, New Mexico, to Western
5 Correctional Facility.

6 Q. And approximately when did you transfer to
7 western?

8 A. The 9th of December -- January 9, 2015.

9 Q. Once you got to Western, were you housed
10 with any of the Government witnesses?

11 A. Yes.

12 Q. Who?

13 A. Robert Martinez, Ruben Hernandez, Benjamin
14 Clark, Frederico Munoz, and Eric Duran.

15 Q. And for how long were you housed with
16 those witnesses?

17 A. We were housed there together in Grants
18 from December all the way until May of 2016.

19 Q. Were any other Government witnesses
20 brought into that pod while you were there from
21 December to May of 2016?

22 A. Yes, Flaco. I don't know his name.

23 Q. He's known by Flaco?

24 A. Yeah. I can't remember his full correct
25 name.

1 Q. Anyone else?

2 A. No.

3 Q. So in May of 2016, where did you go?

4 A. We were transported back to the North
5 facility in Santa Fe.

6 Q. Were you housed with any Government
7 witnesses in the North facility?

8 A. Yes.

9 Q. Who?

10 A. The same ones in Grants including Billy
11 Cordova.

12 Q. And how long were you in PNM North?

13 A. From that day, from that month, May all
14 the way until January of 2017.

15 Q. And from May of 2016 to January of 2017,
16 were any other Government witnesses moved into the
17 pod with you?

18 A. Yes, there was Roy Martinez, Gerald
19 Archuleta, Paul Rivera, and Timothy Martinez. And
20 Javier Rubio.

21 Q. Was Eric Duran housed with you at PNM
22 North during that time?

23 A. Yes.

24 Q. Is there anyone else who we haven't
25 mentioned who was housed with you?

1 A. No, ma'am.

2 Q. So I think in January of 2017 you were
3 moved to Sandoval County; correct?

4 A. Yes, ma'am.

5 Q. And how long were you at Sandoval County?

6 A. About nine months; eight and a half, nine
7 months.

8 Q. And who of the Government witnesses were
9 with you at Sandoval County?

10 A. It was Flaco, but he was in a sep cell.
11 Jerry Montoya, Paul Rivera, Frederico Munoz, Timothy
12 Martinez, myself, Ben Clark, Gerald Archuleta, Roy
13 Martinez, and that's it. There was -- Leonard Lujan
14 was there, but he wasn't with us or around us,
15 anything like that.

16 Q. Was Robert Martinez with you?

17 A. He was there for a couple of days, but
18 then he went himself to a sep cell. He wanted to be
19 alone, by himself.

20 Q. When you say "sep cell," what is that?

21 A. Separate cell.

22 Q. Is that like isolation?

23 A. Yeah, like segregation type.

24 Q. So then you left Sandoval County, and
25 where did you go?

1 A. I went to Otero County.

2 Q. When was that?

3 A. September.

4 Q. So September of 2017?

5 A. Yes, ma'am.

6 Q. And at Otero County were you housed with
7 any Government witnesses?

8 A. I was housed with other Government
9 witnesses, but we were all on different tiers. I
10 was by myself on one tier. Ben Clark was on another
11 tier. And then a few other guys were there that I
12 wasn't quite sure if they were Government witnesses,
13 but they were there with us.

14 Q. And who were those other guys?

15 A. Edward Troup and Christopher Garcia.

16 Q. And were you able to communicate with
17 Benjamin Clark in that tier?

18 A. No. I could have if I would have yelled
19 and, you know, talked all loud on the tier. But we
20 never did that.

21 Q. Are you aware whether other Government
22 witnesses were at Otero County with you?

23 A. Not till later. Jerry Montoya showed up,
24 Lupe Urquizo showed up, and Mario Montoya showed up.

25 Q. And when did they show up?

1 A. They all came within a few weeks of each
2 other. Marijuano, Lupe Urquizo, he came sometime
3 the first two weeks of November. Jerry Montoya came
4 early January of this year, and Mario Montoya, I
5 believe, around the same time.

6 Q. And are there any other Government
7 witnesses who came to Otero County while you've been
8 there?

9 A. No, not to my knowledge.

10 Q. Now, are you currently housed with
11 Government witnesses?

12 A. Yes, ma'am.

13 Q. Who are you currently housed with?

14 A. I'm housed with Javier Rubio, Eric Duran,
15 Billy Cordova, Mario Rodriguez, Timothy Martinez,
16 Robert Martinez, Frederico Munoz, David Calbert, and
17 Roy Martinez. Oh, Gerald Archuleta just got there
18 the other day.

19 Q. So tell us -- so when did you first --
20 when were you first housed with -- I think you said
21 with Mario Rodriguez that it was in January? So are
22 you currently housed with Mario Rodriguez?

23 A. Right now, yes.

24 Q. And when did he get to the pod?

25 A. I actually came to the pod. He was there

1 first.

2 Q. Okay. How about Javier Rubio?

3 A. He was already in the pod when he got
4 there.

5 Q. So when did you get to this pod where the
6 other people are housed?

7 A. Two weeks ago, like a week before the jury
8 selection.

9 Q. And do you know how long the people -- so
10 the people who are in the pod when you were arrived,
11 how long they had been together when you got there?

12 A. Days -- it was all within a week that we
13 all got there.

14 Q. Is there anyone else who is housed with
15 you right now who is a cooperator or Government
16 witness?

17 A. No. Jerry Montoya is at the facility, but
18 he's in a different pod; same unit, different pod.

19 Q. And while you've been here at the
20 courthouse to testify, have you been in a holding
21 cell with any of the other Government witnesses?

22 A. No, we're in separate cells.

23 Q. Are you in the same pod?

24 A. Yes.

25 THE COURT: Ms. Duncan, would this be a

1 good time for us to take our second morning break?

2 MS. DUNCAN: It would, Your Honor.

3 THE COURT: All right. We'll be in recess
4 for about 15 minutes, then I think we'll take a
5 little bit of a late lunch, given the way the breaks
6 are falling this morning. All rise.

7 (The jury left the courtroom.)

8 THE COURT: All right. We'll be in recess
9 for about 15 minutes.

10 (Court stood in recess.)

11 THE COURT: All right. We'll go on the
12 record. Deputy Mickendrow has given me a report
13 from Dona Ana County Detention Center about Mr.
14 Perez' commissary purchases for a number of dates.
15 So I'm going to mark this as Exhibit K to the
16 Clerk's minutes. And Mr. Perez -- I mean Mr. Villa
17 and Ms. Fox-Young, y'all might take a look at it,
18 but I'll mark it as Exhibit K to the clerk's
19 minutes.

20 MR. VILLA: Your Honor, before it's
21 actually admitted, can we look at it to determine if
22 any redaction might be appropriate?

23 THE COURT: You can take a look at it, but
24 I don't think there will be any redactions that are
25 appropriate.

1 MR. VILLA: It will be sealed?

2 THE COURT: We can seal it. But I don't
3 want it to be ex parte. I think it should be
4 something that the parties have access to.

5 MR. VILLA: That's fine, Your Honor.

6 MR. CASTELLANO: Your Honor, I think we
7 have some discovery outstanding from the defense.
8 Ms. Fox-Young, at the questioning of Mr. Armenta,
9 indicated that we had provided that Facebook
10 document to the defense. We actually had not. We
11 provided the tablets to them, and they were supposed
12 to provide us the results of those tablets. So I
13 think we have some information we're still awaiting
14 from the defense.

15 Mr. Lowry, on Friday, did produce to us
16 four Excel spreadsheets which had a summary of what
17 was on the tablets. But I think we're still missing
18 some information from that search. So we gave them
19 the tablets, and they were supposed to give us the
20 results from the tablets. So I think we still have
21 outstanding material.

22 THE COURT: This would be for Mr. Perez?

23 MR. CASTELLANO: Maybe from all the
24 defendants. I'm not sure. But this particular
25 document which Ms. Fox-Young approached the bench

1 with was a Facebook printout, and that was a result
2 from the searches. So that actually had not been
3 disclosed to us. We're just seeking the additional
4 information that was found on the tablets.

5 THE COURT: But you think you're okay with
6 Mr. Baca, what he's produced?

7 MR. CASTELLANO: Yes. I mean, I don't
8 know the universe of documents that are coming from
9 there. All I know is there were four spreadsheets,
10 but it didn't have documents like Ms. Fox-Young had
11 in court. So I'm saying there might be a summary
12 of, for example, internet searches and things of
13 that nature. But things like what she had this
14 morning we had not seen yet.

15 MS. FOX-YOUNG: Your Honor, may I respond?

16 THE COURT: Yeah. Why don't y'all maybe
17 talk during the break, and see if y'all can satisfy
18 the Government as to what it is they're looking for,
19 and we can then take it up at that time.

20 MS. FOX-YOUNG: Well, Judge, I just think
21 it was a public internet search. And I'm happy to
22 provide that document. But I don't think we have
23 anything further to provide STIU.

24 MR. LOWRY: Your Honor, I want to point
25 out they have everything that we have from the

1 forensic analysis.

2 THE COURT: All right. All rise.

3 (The jury entered the courtroom.)

4 THE COURT: All right. Everyone be
5 seated.

6 Mr. Armenta, I'll remind you that you're
7 still under oath.

8 THE WITNESS: Sure.

9 THE COURT: Ms. Duncan, if you wish to
10 continue your cross-examination of Mr. Armenta, you
11 may do so at this time.

12 MS. DUNCAN: Thank you, Your Honor.

13 THE COURT: Ms. Duncan.

14 BY MS. DUNCAN:

15 Q. Mr. Armenta, right before the break we
16 were talking about the Government witnesses you're
17 currently housed with.

18 A. Yes, ma'am.

19 Q. And my understanding is you all have been
20 housed together for over two weeks; is that correct?
21 That's when you got moved into the pod, about two
22 weeks ago?

23 A. Yes, ma'am.

24 Q. So I want to make sure I have a complete
25 list of who have been housed together. I think you

1 mentioned Javier Rubio.

2 A. Yes, ma'am.

3 Q. Eric Duran?

4 A. Yes, ma'am.

5 Q. Billy Cordova?

6 A. Yes, ma'am.

7 Q. Mario Rodriguez?

8 A. Yes, ma'am.

9 Q. Frederico Munoz?

10 A. Yes, ma'am.

11 Q. David Calbert?

12 A. Yes, ma'am.

13 Q. Roy Martinez?

14 A. Yes.

15 Q. Robert Martinez?

16 A. Yes.

17 Q. How about Timothy Martinez?

18 A. Yes, ma'am.

19 Q. Gerald Archuleta?

20 A. Yes, ma'am.

21 Q. Mario Montoya?

22 A. No.

23 Q. Lupe Urquizo?

24 A. No.

25 Q. Has Mr. Urquizo ever been housed with you

1 at Otero County?

2 A. Yes.

3 Q. When was he housed with you?

4 A. From November -- early November,
5 mid-November, to when I got over here in January.

6 Q. Sammy Griego?

7 A. No.

8 Q. Have you ever been housed with Sammy
9 Griego?

10 A. No.

11 Q. Robert Lovato?

12 A. I've been housed with him before, but he's
13 not housed now with us.

14 Q. When is the last time you were housed with
15 Robert Lovato?

16 A. August of 2017.

17 Q. And where were you housed with Robert
18 Lovato?

19 A. Sandoval County jail.

20 Q. And have you ever been housed with Mario
21 Montoya?

22 A. Just recently when I was there. He came
23 early January, maybe late December.

24 Q. So early January when you were at Otero
25 County?

1 A. Yes, ma'am.

2 MS. DUNCAN: Thank you. I have no further
3 questions, Your Honor.

4 THE COURT: Thank you, Ms. Duncan. Mr.
5 Castellano, do you have redirect of Mr. Armenta?

6 MR. CASTELLANO: Thank you, Your Honor.

7 THE COURT: Mr. Castellano.

8 REDIRECT EXAMINATION

9 BY MR. CASTELLANO:

10 Q. Mr. Armenta, after you broke the rules,
11 did you suffer the consequences in terms of having
12 no more contact visits?

13 A. Yes, I did.

14 Q. No more payments?

15 A. No more payments, no more contact visits.

16 Q. So did that all disappear once the
17 Government found out about your misconduct?

18 A. Yes, sir.

19 Q. Now, in terms of your drug use at Sandoval
20 County, how do we know that you used drugs at
21 Sandoval County?

22 A. Because of that note that was intercepted,
23 and I told you the truth when you asked about it.

24 Q. So do we know about your actual use
25 because you actually disclosed that to the

1 Government and the Government gave that information
2 to the defense?

3 A. My actual use?

4 Q. Yes.

5 A. Meaning?

6 Q. When you used at Sandoval County.

7 A. Yes.

8 Q. Did anyone catch you using at Sandoval
9 County?

10 A. No.

11 Q. So how do we know about that?

12 A. Because they caught that note. They
13 intercepted it.

14 Q. Not about the note; about your actual use.

15 A. Oh, nobody. How do I know about it?

16 Because I told you guys I was using it.

17 Q. Did you get caught with Suboxone?

18 A. No.

19 Q. Did Mr. Martinez get caught with Suboxone?

20 A. No. Timothy Martinez? No.

21 Q. Okay. So we know these things because we
22 told you to tell us what you did and you told us?

23 A. Yes, sir.

24 Q. In terms of this timeline, do you remember
25 having a meeting with the Government on January 23,

1 2018?

2 A. Yes, sir.

3 Q. And do you remember at that time whether
4 you stated, even before trial started, that Mr.
5 Rodriguez stayed inside his cell and covered his
6 window?

7 A. Yes.

8 Q. Do you recall, even before trial started,
9 indicating that Mr. Herrera told you that he also
10 ordered the hit on Mr. Molina?

11 A. Yes, I do.

12 Q. Going back to this timeline here, you
13 testified earlier that in January 2015, you wrote a
14 letter to Mr. Montoya's attorney?

15 A. Yes.

16 Q. And the purpose was to take the rap for
17 everything?

18 A. Yes.

19 Q. And then in February of 2015, did you have
20 a change of heart?

21 A. Yes.

22 Q. And that was after speaking with who?

23 A. With Eric Duran.

24 Q. After that time, did you then decide to do
25 the right thing and tell the truth about what

1 actually happened?

2 A. Yes, I did.

3 Q. Before this case was even indicted in
4 December of 2015, did you disclose information to
5 Government officials in September of 2015?

6 A. Yes, I did before. I did.

7 Q. And do you recall at that meeting whether
8 you indicated that Mr. Sanchez had ordered you to
9 murder Mr. Molina?

10 A. Yes.

11 Q. Did you also remember in that meeting he
12 told you, if you didn't do it, that you could be
13 killed for refusing?

14 A. Yes.

15 Q. Was it your understanding that the
16 paperwork for the Molina hit came from yellow pod,
17 next door?

18 A. Yes.

19 Q. And I think you testified to us that Mr.
20 Herrera was the llavero or the key-holder for that
21 pod; is that correct?

22 A. Yes. The spokesperson, yes.

23 Q. So if the paperwork is coming through his
24 pod, what are his responsibilities to make sure the
25 hit happens?

1 MR. MAYNARD: Objection, Your Honor,
2 speculation.

3 THE COURT: Why don't you lay some
4 foundation?

5 MR. CASTELLANO: Sure.

6 BY MR. CASTELLANO:

7 Q. Do you know the rules of the gang?

8 A. Yes.

9 Q. And do you understand the responsibilities
10 that leaders have within this gang?

11 A. Yes.

12 Q. And what happens if a leader gets a hit,
13 an order to hit somebody? Does the order have to be
14 followed by the leader?

15 A. Yes, it has -- it goes down like, I guess,
16 the chain of command, it would go down. Whoever is
17 in charge sends out the hit. Then whoever is next
18 in line at that facility, they have to carry it out.

19 Q. Now, is that your understanding of the
20 position that Mr. Herrera held in yellow pod?

21 MR. MAYNARD: Your Honor, that may be his
22 understanding, but I still don't think there is a
23 foundation.

24 THE COURT: I think there is. I think
25 this is his understanding.

1 A. Yes.

2 THE COURT: Overruled.

3 BY MR. CASTELLANO:

4 Q. And the same thing with Mr. Sanchez as a
5 leader of the blue pod?

6 A. Yes.

7 Q. And do they then delegate that order to
8 you?

9 A. Yes. Well, Mr. Sanchez did.

10 Q. Now, in addition to information you gave
11 about this case, I want to make sure I'm clear, I
12 don't want any names. But related to the Javier
13 Molina murder, did you give law enforcement the
14 names of other people who are also involved with the
15 paperwork and things of that nature?

16 MS. DUNCAN: Your Honor, I'm going to
17 object. May we approach?

18 THE COURT: It's a yes/no answer. We
19 won't get into any names, but it's a yes/no answer
20 at this point.

21 A. Can I hear the question again, please?

22 BY MR. CASTELLANO:

23 Q. Once again, without telling us names, did
24 you give law enforcement the names of other people
25 who were also involved with this murder scheme,

1 including how the paperwork got to the facility?

2 A. Yes.

3 Q. Can you tell the members of the jury
4 whether you also gave law enforcement information
5 about the murder conspiracy on Gregg Marcantel?

6 A. Yes, I did.

7 Q. And what names did you give as involved
8 with that murder conspiracy?

9 A. What names?

10 Q. Yes.

11 A. Who told me?

12 Q. Yes.

13 A. That would be Robert Martinez.

14 Q. And who else was involved that he told you
15 about?

16 MS. DUNCAN: Your Honor, I'm going to
17 object. This is eliciting hearsay.

18 THE COURT: Well, you can approach, but I
19 think it's going to come under the co-conspirator
20 exception.

21 MS. DUNCAN: Your Honor, can we approach?

22 THE COURT: You may.

23 (The following proceedings were held at
24 the bench.)

25 THE COURT: The purpose of the James

1 hearing was to establish who was part of that
2 conspiracy. So I thought we had decided that this
3 would come in.

4 MS. DUNCAN: Maybe some statement -- this
5 statement was not on the Government's James list.
6 And it wasn't elicited on direct. I don't know why
7 it is on redirect. My understanding, the
8 conversation with Mr. Martinez was after the fact.

9 MR. CASTELLANO: And the purpose of the
10 names is, I'm clearing up when people were
11 cooperating and when they weren't, and information
12 he gave about people who weren't even cooperating.
13 Because the defense has muddied the water a little
14 bit by saying the cooperators were housed with you.
15 At the time he got the statement, these people were
16 not cooperating. I'm trying to clear up who was
17 cooperating and when.

18 THE COURT: I'm a little bit concerned
19 about the timing of these. It doesn't give me an
20 ability to see if they were in furtherance of --
21 after the conspiracy, those things. I'm a little
22 bit concerned about putting names out there, because
23 it doesn't give me the ability to evaluate without
24 some timeframe. Let's not do names, unless we want
25 to go through the task either of having a James

1 hearing or laying the timeframe for the statement,
2 that it's clear that it was before that conspiracy
3 came to an end, and before, or it was in furtherance
4 of a conspiracy.

5 MR. CASTELLANO: Well, the purpose is to
6 show that he gave information to law enforcement
7 about other criminal activity. And they've already
8 asked if these people have been housed with him, and
9 housed with him at different times. And one of the
10 reasons is to show that he turned over to law
11 enforcement incriminating material on other people
12 at time when those people were not cooperating.

13 THE COURT: Well, I think you can ask a
14 general question. But I think we better stay away
15 from statements that I think are going to be --
16 could be hearsay, and I don't have a basis to
17 determine otherwise.

18 MR. CASTELLANO: I'll stay away from the
19 actual statements themselves. But I do intend to
20 bring out that he gave information about people,
21 without telling what they told him.

22 THE COURT: And if you want to object, you
23 can, but I think probably if we keep it just as to
24 when he's cooperating, it probably comes within the
25 scope of the questioning that the defendants --

1 MS. DUNCAN: If I could make a record on
2 that, Your Honor, because part of the problem is the
3 information that Mr. Armenta provided about other
4 people is hearsay, so it's suggesting to the jury
5 that he provided information about other people
6 involved. Obviously, Mr. Baca was charged with
7 this. What he's referring to are statements that
8 other people told him about Mr. Baca's involvement.
9 So the Government didn't elicit it on direct,
10 because it was hearsay. Now they're suggesting it
11 to the jury. Whether he provided information about
12 other people is irrelevant, unless it's relevant to
13 this. The bottom line, whether they're cooperating
14 or not cooperating, it's hearsay. It's people
15 telling him stuff.

16 MR. CASTELLANO: Ms. Fox-Young's entire
17 line of questioning dealt with rumors with people
18 when she tried to bring in the hearsay once again
19 about Rudy Perez. So here, in this context, it's
20 different because he can provide to law enforcement
21 hearsay because he's pointing them in the right
22 direction. I did not bring it out in direct
23 examination because I agree it was hearsay, and I
24 didn't want to bring that to the truth. The bottom
25 line, even if he has hearsay, he can convey that to

1 law enforcement to help further their --

2 THE COURT: He can, but I don't think he
3 can provide it to the jury here. I don't think I
4 have enough basis to sort of sort out any sort of
5 whether it's hearsay or not. And I think it is
6 hearsay. I mean, it's being offered for the truth.
7 And so I think I'm going to sustain the objection.

8 MR. CASTELLANO: Just for the record, it's
9 not offered for the truth; it's for the purpose of
10 showing that the statement was made to him. I
11 understand the Court's ruling.

12 MS. DUNCAN: Thank you.

13 (The following proceedings were held in
14 open court.)

15 THE COURT: All right, Mr. Castellano.

16 MR. CASTELLANO: Thank you, Your Honor.

17 BY MR. CASTELLANO:

18 Q. Mr. Armenta, back in September of 2015,
19 before the case was even indicted -- I don't need to
20 know the statements or what they told you -- but did
21 you tell law enforcement about criminal activity on
22 behalf of Robert Martinez and Roy Martinez?

23 A. Yes, I did.

24 Q. And can you tell members of the jury
25 whether those two individuals were later indicted as

1 part of this overall investigation?

2 A. Yes, they were.

3 Q. Now, you were asked whether or not you
4 were housed with cooperators back in January and
5 even September 2015. In September of 2015, as far
6 as you knew, were Robert Martinez or Roy Martinez
7 cooperating with the Government?

8 A. No.

9 Q. As far as you know, did they later become
10 cooperators for the Government?

11 A. Yes.

12 Q. So at the point that one or both of these
13 people may have told you something incriminating,
14 were they cooperating with the Government, either
15 Roy Martinez or Robert Martinez?

16 A. Yes.

17 Q. They were or were not, in September 2015?

18 A. They were not cooperating?

19 Q. Correct.

20 A. I wasn't around them. I had no knowledge
21 of them cooperating at that time.

22 Q. I'm going to ask you about another person,
23 Benjamin Clark. His name has come up. Once again,
24 without telling us what he said, did he tell you
25 about other criminal activity in which he was

1 involved?

2 A. Yes.

3 Q. And did he also mention another name to
4 you by the name of Edward Troup?

5 A. Yes, he did.

6 Q. Can you tell the members of the group
7 whether those two people were later charged?

8 A. Yes, they were charged.

9 Q. At the time Benjamin Clark told you about
10 his criminal activity, was he a cooperator with the
11 Government?

12 A. No, he was not.

13 Q. Same question. In February of 2015, when
14 you had a discussion with Eric Duran about him
15 telling you to do the right thing, did you know at
16 that time whether he was cooperating with the
17 Government?

18 A. No.

19 Q. Now, you were asked about whether or not
20 you were housed with other cooperators in this case
21 in the last two weeks. Were you aware whether those
22 people were transported closer to Las Cruces for
23 purposes of being close to the trial?

24 A. Yes, that's the reason.

25 MR. CASTELLANO: May I have a moment, Your

1 Honor?

2 THE COURT: You may.

3 MR. CASTELLANO: Thank you, Your Honor. I
4 pass the witness.

5 THE COURT: Thank you Mr. Castellano. If
6 there are not any other questions, Mr. Armenta, you
7 may step down.

8 Is there any reason Mr. Armenta cannot be
9 excused from the proceedings, Mr. Castellano?

10 MR. CASTELLANO: No, Your Honor.

11 THE COURT: How about the defendant?

12 MS. DUNCAN: Your Honor, we'd ask that he
13 be held on reserve.

14 THE COURT: All right. You'll be subject
15 to re-call in this case. But you need to step out
16 of the courtroom and remain outside of the
17 courtroom, and not talk to anyone about your
18 testimony here today.

19 THE WITNESS: Okay.

20 MR. LOWRY: Your Honor.

21 THE COURT: Or on Friday.

22 MR. LOWRY: If he's subject to recall, can
23 we admonish the witness?

24 THE COURT: I thought I just did.

25 Don't talk about your testimony.

1 THE WITNESS: Okay.

2 THE COURT: Thank you for your testimony,
3 Mr. Armenta.

4 THE WITNESS: You're welcome.

5
6 UNITED STATES OF AMERICA

7 STATE OF NEW MEXICO

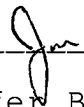
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9 C-E-R-T-I-F-I-C-A-T-E

10 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
11 Official Court Reporter for the State of New Mexico,
12 do hereby certify that the foregoing pages
13 constitute a true transcript of proceedings had
14 before the said Court, held in the District of New
15 Mexico, in the matter therein stated.

16 In testimony whereof, I have hereunto set my
17 hand on this 16th day of March, 2018.

18

19

20 
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